

# Consumer Federation of America NEWS

WASHINGTON, DC

JULY, 1978

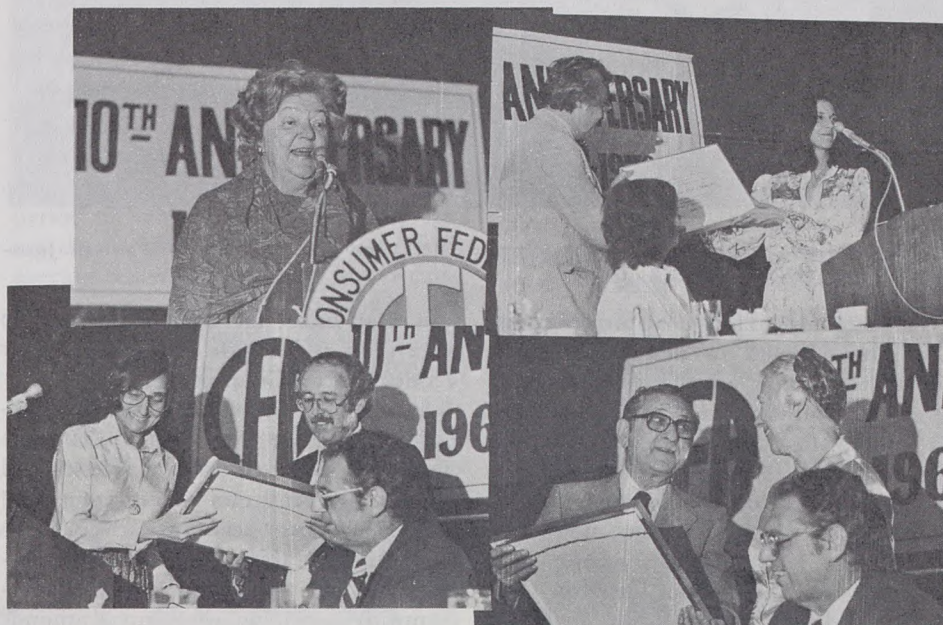
## Awards Dinner Highlights 10th Anniversary

The late Senator Hubert Humphrey, Congressman Bob Eckhardt, Special Assistant to the President for Consumer Affairs Esther Peterson, and UPI consumer journalist Michael Conlon were honored for their special contributions to the Consumer Movement at CFA's Eighth Annual Awards Dinner on June 7 in Washington, D.C.

The dinner celebrated both the honorees and CFA's ten year history of consumer advocacy. Several of CFA's founding members were on hand for the event, including Jacob Clayman, first CFA acting president, Father Robert McEwen, first elected CFA president, Erma Angevine, CFA's first executive director, and Carol Tucker Foreman, CFA's second executive director.

In addition to presenting individual hand painted plaques, CFA established a scholarship fund in honor of the award recipients. The scholarship fund will permit each award recipient to select an intern who will work at CFA during the summer 1979 to learn first hand the day-to-day struggles of the consumer movement.

Kathleen F. O'Reilly, CFA's Executive Director keyed what became an evening filled with nostalgia. CFA Secretary/Treasurer Ken Kovack of the United Steelworkers of America served as master of ceremonies, and presented the Philip Hart Public Service Award to Mrs. Frances Humphrey Howard, sister of the late Senator.



Photos by Mary Clare Molony

Highlights of CFA Awards Dinner top left: Frances Humphrey Howard accepts the Philip Hart Public Service Award (Senate) for the late Senator Hubert Humphrey. Right: Ellen Haas presents the Philip Hart Public Service Award (House) to Congressman Bob Eckhardt (D-Tex.), as Kathleen F. O'Reilly, Executive Director, looks on. Bottom left: Rhoda Karparkin presents to Michael Conlon the Outstanding Media Award as Ken Kovack looks on. Bottom right: Jake Clayman presents the Distinguished Consumer Service Award to Esther Peterson.

It was fitting that Hubert Humphrey received the award for, like the late Senator Philip Hart, Humphrey was a close friend and strong ally to consumers. In 1971 Senator Hart was chosen as the first recipient of CFA's award for Distinguished Public Service. Hart was a vigorous advocate of consumers. Dur-

ing his eighteen years in the Senate, Hart authored or co-sponsored nearly every major piece of consumer legislation enacted by Congress. Some of the bills Hart was particularly successful in securing were the Hart-Scott Rodino Anti-trust Improvement Act, the Drug Safety Act of 1962, the Truth-in-Pack-

aging Act of 1965, the Truth-in-Lending Act of 1966 and the Voting Rights Act of 1965. Upon his death in 1976, CFA renamed the Award as a living tribute to his memory.

In accepting the award for the late Senator Humphrey, Mrs. Howard said of her brother, "When I was first asked to receive this award for Hubert I wasn't sure I would be able to make it, however, I thought back and realized, Hubert never said no to you." She added "Hubert lives on when we care and work for other people."

Hubert Humphrey's 23 years in the Senate reflected his unfailing commitment to consumer interests. In 1959 Humphrey jointly sponsored the first bill to establish a Department of Consumers. He introduced or co-sponsored legislation related to prescription drugs, auto safety, food stamps and nutrition programs, the elderly and handicapped, energy resources, emergency unemployment assistance, and civil rights.

Rep. Bob Eckhardt (D-Tex.) was presented the Philip Hart Public Service Award for the House of Representatives by CFA President Ellen Haas.

Since his election in 1967, Eckhardt has vigorously worked for consumer causes. As Chairman of the Consumer Protection Finance Subcommittee of the House Interstate and Foreign Commerce Committee, Eckhardt is the lead-

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## Ellen Haas Elected CFA President

Ellen Haas, founder and first President of the Maryland Citizens Consumer Council, was elected CFA's President at its January annual meeting. Ellen, who is currently Consumer Director of the Community Nutrition Institute, formerly served as Associate Director and Acting Executive Director of the National Consumers League and is a past director of Consumer Education in the Montgomery County, Maryland, Office of Consumer Affairs.

An active force in developing and coordinating national and state consumer coalitions, Ellen has made a continuous effort to develop, sponsor, and enhance local consumer educational projects. According to Ellen, "Our 10th Anniversary year is an important one. We've learned the hard way this year how critically important consumer support at the grassroots is. I believe that

consumer action and programs at the local grassroots level is the soul of CFA and the consumer movement. This year's anniversary should be a time to focus on multiplying our membership numbers across the country and, in the process, to strengthen our collective consumer voice."

Ellen also emphasized CFA's role this year in developing more effective public participation in the federal decision-making process, so crucial and essential in promoting consumer interests.

In other elections, Betsy Wood, Home Economist for the Consumers Cooperative of Berkeley, became a vice-president. Additionally, Allan Classen, of the Consumer Center of Fort Wayne, Indiana, and Neil Gendel, of San Francisco Consumer Action, were elected to the CFA Board of Directors.



CFA Officers and Board Members at Annual Meeting.

From left to right kneeling, Ken Kovack, Leroy Schecher, Warren Braren, Standing, Roy Alper, Peter Jacobson, Helen Nelson, Allan Classen, Betsy Wood, Shelia Sidles, Ellen Haas, Steve Brobeck, Glen Nishimura, Alex Radin, Charles Wheatley, Arnold Mayer.



## FTC &amp; Children's Advertising

## CFA Prods Congress

Since the Federal Trade Commission issued its notice of proposed rulemaking on April 28 concerning television advertising aimed at children (see detailed account, p. 3), it has been the target of heavy attack, particularly by the cereal, sugar beet and broadcasting industries. Within just a few days of the FTC's announcement, *Advertising Age*, the trade press of the marketing world, reported that over 45 representatives of manufacturers, advertisers and broadcasters had united to combat the FTC's proposed inquiry and rulemaking and were raising a \$2 million war chest to finance their efforts.

The first evidence of victory for these forces came in the form of a rider adopted by a 5-4 vote on May 2 by the Subcommittee on State, Justice, Commerce and the Judiciary of the House Appropriations Committee. Authored by Rep. Mark Andrews (R-ND), the rider attached to the FTC's appropriations bill a legislative provision which would forbid the use of any FTC funds to limit advertising of any food product containing ingredients which the Food and Drug Administration has determined to be generally recognized as safe. The Subcommittee's discussion clearly indicated that the chief objective of attaching the rider was to prevent the FTC from examining the children's advertising issue.

CFA countered by organizing a coalition of 24 national consumer, educational, labor and professional health care organizations ranging from the National Education Association to the United Steelworkers of America, as well as several of the country's foremost nutritionists.

In a May 18 letter to Chairman George Mahon (D-Ga) and members of the House Appropriations Committee, the Coalition called on the Committee to report the FTC appropriations bill to the House floor without the Subcommittee rider. The coalition argued against political interference in the independent regulatory process prior to the fact-finding phase and cited widespread concern over the issues associated with highly sugared food products and advertising practices which seek to influence young children's product preferences.

In a move designed to draw media attention to the Coalition's efforts, CFA organized a "Concerned Parents Rally" on the Capitol steps on May 22, two days before the Housing Appropriations Committee was scheduled to consider the bill.

More than 150 persons joined coalition members and members of the press. Among them were several Congressional wives who are lobbying the issue, administrators and students from Georgetown University's School of Dentistry, educators and health professionals. Both the *Washington Post* and NBC-TV gave prominent coverage to the rally which also featured Mike Jacobsen, Director of the Center for Science in the Public Interest, dressed in "Tony the Tiger" garb.



Kathleen Murphy, wife of Rep. John M. Murphy (D-NY) and June Bingham, wife of Rep. Jonathan Bingham (D-NY) at CFA Rally.

Although the House Appropriations Committee failed to delete the Subcommittee's rider when it met on May 24, an amendment to the rider appeared to give the FTC the right-of-way to proceed with its inquiry provided that no rule be issued during fiscal year 1979.

A clearer victory was won, however, when the FTC appropriations bill reached the House floor on June 14. Mark Andrews again introduced his amendment, this time extending it to include a prohibition of the use of any FTC funds to limit the advertising of

toys that have not been found to be hazardous and unsafe by the Consumer Product Safety Commission.

In response to one of several objections raised by Rep. Bob Eckhardt (D-TX), a point of order was sustained against the Andrews amendment and the FTC appropriations approved.

On the Senate side the FTC appropriations bill was reported out of Subcommittee with no weakening amendments on June 12 and is now awaiting consideration by the full Senate Committee on Appropriations.

by Lichty



"The toy inside contains more nutritional value than the cereal!"

## Grassroots Activists Meet in D.C.

More than 250 consumer leaders from 39 states and the District of Columbia met June 5-7, 1978, at Mount Vernon College in Washington, D.C. to explore strategies and resources for "Expanding Consumer Power at the Grassroots."

The two-and-a-half day conference, sponsored by the Douglas Center's National Community Consumer Education Project, featured action-oriented discussions on a wide variety of topics. It also afforded participants the opportunity to establish links with other local groups and agencies working on similar issues.

Ralph Nader opened the conference Monday evening with a review of the "agenda" now before consumer activists. Later that evening, Marc Caplan, Director of Connecticut Citizen Action Group (CCAG); Pam Piering, Consumer Education Director of CAMP Consumer Action in Seattle; and Barbara Gregg, Director of the Montgomery County (Maryland) Office of Consumer Affairs, described effective approaches to consumer education and advocacy at the local level, as well as some of the challenges ahead.

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## CFA Attacks Administration Approach To Inflation

On June 8, 1978 CFA's Board of Directors unanimously urged the Carter Administration to reverse its disturbing trend of focusing anti-inflationary efforts on those federal programs directly related to the health and safety of American consumers and workers and those federal programs which provide consumers with information necessary to make intelligent, anti-inflationary market place decisions.

The Board expressed strong concern as a result of reports that representatives of the meat industry have been meeting with Robert Strauss, President Carter's anti-inflationary spokesman, to urge a weakening or repeal of: (1) the requirement to identify products containing tissue from ground bone; and (2) the requirement that meat products comply with stated weight standards. It is the contention of the meat industry that such disclosures and standards are inflationary and should not be required.

As stated by CFA's Board, favorable administration response to this industry's overtures would be the latest example of Carter Administration complicity to use its anti-inflationary program to cripple health, safety, and consumer information requirements. These

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## CFA Energy Study

On May 5, CFA completed a comprehensive analysis of the impact of federal energy programs on low-income consumers, the section of the population hardest hit by rapidly rising energy prices. The twelve week study, conducted under contract with the Office of Technology Assessment, will be included in a September report to Congress from OTA's Task Force on Residential Energy Conservation. Various federal government programs, including those of DOE, HEW, HUD, Community Services Administration (CSA) and Farmers Home Administration (FmHA), were analyzed for effectiveness and extent of their assistance. Problems unique to low-income consumers were discussed, such as their marginal ability to adjust consumption, implying a basic need for energy related home improvements, as well as educational programs. With the aid of a DOE computer model, the paper presented projections of the future impacts of continuously rising energy costs on low-income consumers. Examining low-income consumers energy problems from all angles with an emphasis on the grassroots view, the study raised key policy questions and should aid in formulating effective and realistic long range energy policy. (See next CFA News for detailed description of CFA's OTA study).



## CFA Praises FTC Proposed Funeral Rules

On June 19, 1978, CFA congratulated the FTC on its comprehensive (and long awaited) staff report and proposed rules governing the funeral industry.

The proposed rules would provide greater price information, and freedom from emotional harassment, intimidation, and fraud.

Among the practices cited by the report that would become violations of the law are the following:

- Embalming without permission and with misrepresentation;
- Harassing or intimidating anyone who would buy or sell low-cost funerals by offering the argument that such funerals lack ritual or proper "funeralization."
- Removing bodies from hospitals and institutions without authorization and refusing to release bodies to those families who want them taken to another mortuary.
- Overcharging families for funeral-related services.

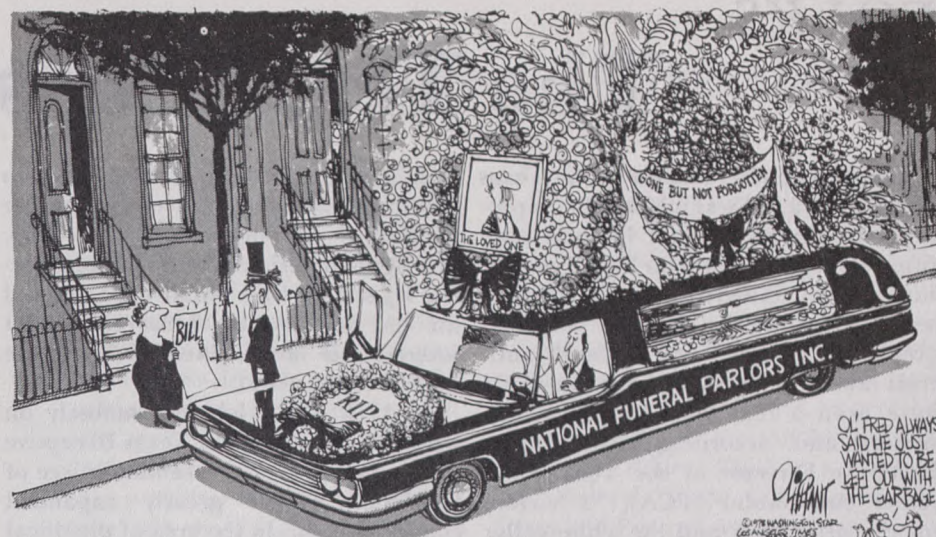
CFA has been active in this proceeding and is pleased to have submitted an exhaustive study of current state regulations which demonstrated that less

than 5% of the recommended consumer protection provisions in the proposed FTC rules can be found in state law, largely because of the dominating influence the industry has over local licensing boards and state legislatures.

These proposed rules were a reaction to overwhelming consumer demand for greater government control of the funeral industry. The FTC received more than 6,500 letters from individual consumers, and written comments from 70 consumer organizations, more than a dozen state and local government consumer offices and from approximately 150 federal, state and local government officials.

It was dramatically apparent that for far too long the funeral industry has exacted a scandalously high emotional and financial cost for consumers at a period of heightened vulnerability during the funeral selection process. If the average funeral is even \$50 less because of the new rules, consumers will save \$100 million annually. (It is expected that the cost saving will be even greater.)

The funeral industry can hardly complain about the modest amount of paperwork required by the rules—a



Credits—Oliphant, L.A. Times, Washington

mere 3 page easy to understand form—containing information which funeral directors already possess.

Although the FTC obviously does not have the staff resources to maintain vigorous and comprehensive enforcement of the nation's 20,000 plus funeral homes, CFA is confident that consumers will use their individual right of action in the courts and that state attorneys general will utilize their recently developed powers to sue on behalf of the citizens of their states. Hopefully Con-

gress will soon see the wisdom of authorizing consumer class action lawsuits for any violation of FTC rules and regulations so that consumers can maximize their ability to create deterrents against fraud in the marketplace.

The 5½ years which have gone into this proceeding and the 20,000 pages of documentation are positive proof that the funeral industry has done a very poor job of policing itself. CFA urges the FTC Commissioners to expeditiously approve the proposed rules.

## FTC Considers Restricting “Sugar-Coated” Children’s Advertising

“Super Sugar Crisp,” says the animated Sugar Bear, “has a golden sugar coating just like Sugar Bear’s,” and tastes “sweet, sweet, sweet.” The cereal is “part of a balanced breakfast.” In another commercial for Marathon Candy Bars, children learn that “you can’t eat a Marathon Candy Bar fast—it lasts a good long time—delicious caramel and chewy—Nobody eats a Marathon bar quick.” Omitted from these typical commercials, however, is the fact that Super Sugar Crisp contains 45.2% sugar, and that consumption of long-lasting, chewy snack foods seriously increases the risk of tooth decay.

Concerned about the unfairness and deception of advertisements like these aimed at children, the Federal Trade Commission, on April 28, issued a notice of proposed rulemaking to restrict television advertising to children, particularly for heavily sugared snack foods. Based on petitions from the Center for Science in the Public Interest in Washington, D.C., and Action for Children’s Television in Boston, Massachusetts, the FTC Commission staff wrote a 346-page report, which was released on February 28, and on which the Commission based its decision to proceed with rulemaking. The FTC Staff Report makes three recommendations: (1) a ban on all television advertising directed to children under eight years old because they are “too young to understand the selling purpose of or otherwise comprehend or evaluate the advertising;” (2) a ban on television advertising directed to children from ages

eight to twelve, for products posing the most serious dental health risks; and (3) nutritional or health disclosures funded by advertisers to balance the advertising of sugared products.

### Background

In 1977, according to the FTC Staff Report, the average American child aged two through eleven watched over 25 hours of television per week, and saw 20,000 television commercials, most of which were for candies and sweets, sugared cereals, toys and fast food restaurants promoting hamburgers, fried chicken, and thick shakes. These commercials employ devices which, according to child psychologist Dr. Kenneth O’Byrne, “are so potent that they make the 30-second commercial the most effective teaching device yet invented for implanting any relatively simple idea that a product is desirable.” The FTC Staff Report noted that consumption of the products advertised to children is of great concern to doctors, dentists, and nutritionists, principally because the products contain large amounts of added sugar. According to nutritionist Dr. Jean Mayer, former professor of nutrition at Harvard, “the current pandemic level of tooth decay in the United States is causally related to sugar consumption.” Annual per capita consumption of sugar reached 126 pounds in 1976, and some experts suggest that sugar consumption among children may be rising faster than among the population as a whole.

### Advertising to Young Children

Spurred by facts such as these, the FTC is considering a rule prohibiting all television ads directed to children under eight years old, because this advertising is inherently unfair and deceptive under Section 5 of the Federal Trade Commission Act. Citing expert opinions to support this claim, the FTC Staff Report noted that small children are particularly vulnerable to TV ads because they have “difficulty distinguishing between the fantasy and the realistic elements of commercials as well as between the advertisements and the products which they promote.”

Moreover, young children who do not understand the persuasive intent of commercials are more likely than older children to believe that the heavily sugared products advertised to them are the most appropriate foods to eat. This is because the commercials depict super heroes performing feats, show happy, healthy children running, jumping, and often out-performing adults on physical tasks, and use characters such as Fred Flintstone and Barney Rubble who also appear in children’s programming.

Television advertising of sugared foods is successful, noted the FTC staff, “principally because children are willing and able to act as ‘surrogate salesmen’ for advertisers, and because they are increasingly buying food for themselves.” Several studies indicate that even very small children tenaciously insist that their parents buy advertised products. This prompted Commissioner

Paul Rand Dixon to ask that parents write to the FTC explaining whether their children’s requests for heavily sugared foods are in fact successful, and why parents “give in” to their children’s requests.

In presenting legal arguments in favor of a ban on television advertising to young children, the FTC staff cited precedents holding that children are a special class under the law, and deserve special protection. Also documented is the imbalance of power between well-financed adult advertisers and children. As media expert Robert Choate has observed, “advertising to children much resembles a tug of war between 200-pound men and 60-pound youngsters.”

### Advertising of Sugared Foods

A second recommendation by the FTC staff is that television commercials for the most highly sugared foods be banned on programs aimed at children from eight to twelve years of age.

Dr. Jean Mayer has stated that the nutritional value of food varies inversely with the amount spent to advertise it. In the first nine months of 1975, for example, the overwhelming majority of commercials shown on weekend, daytime television were for cereals, candy, and sweets, while commercials for meats, vegetables, cheese, and milk were almost nonexistent.

The cereal and candy manufacturers often stress the sticky, chewy, or long-lasting qualities of the advertised foods, thereby encouraging children to con-

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## FOLKS

# The Texas Consumer Association

During the 1977 session of the Texas legislature, a bill was introduced to prohibit the Texas Attorney General from filing suit for damages on behalf of consumers in anti-trust cases, thereby severely limiting the Attorney General's power to enforce new federal anti-trust laws. The passage of this bill would have been a real blow to Texas consumers, and, according to Jim Boyle, Executive Director of the Texas Consumer Association (TCA), "a victory for the price fixer and the white collar criminal." TCA lobbied strenuously against this legislation, and was instrumental in securing its defeat. Such lobbying on behalf of the consumer has long been and continues to be an integral and important role for the Texas Consumer Association.

TCA was founded in September 1966, when Dallas attorney and consumer activist, Ned Fritz, assembled a group of four hundred individuals, including representatives of 63 independent organizations. Those founding members of TCA shared a common interest in making their voices heard in the marketplace, in government, and in all phases of consumer affairs. During the next three years, TCA was restructured, its headquarters was moved to Austin, and a set of legislative priorities were established.

From the outset one of the most important goals of TCA is consumer education, and the principal vehicle for that activity is the association's bi-monthly newsletter, *Consumer Watch*. Supported in part by a recent ACTION mini-grant, *Consumer Watch* carries articles of interest to Texas consumers, ranging from medical malpractice to utility rates. The most recent issue of *Consumer Watch* includes an in-depth look at Department of Transportation Secretary Brock Adams' proposal for passive restraints in automobiles by the year 1984, a safety measure which TCA supports.

The annual statewide meeting of the Texas Consumer Association is also used as a vehicle for spotlighting crucial consumer questions. In 1976, the regulation of public utilities was the subject of close scrutiny at TCA's annual meeting. TCA had actively promoted legislation which resulted in the establishment of the state Public Utilities Commission in the session just prior to this meeting.

At the August 1977 TCA meeting the program featured a debate between Congressman Bob Krueger (D-TX), who has sponsored gas deregulation proposals in the U.S. Congress, and Energy Action Director Jim Flug, who is credited with having helped defeat such proposals.

In addition to its consumer education activities, the Texas Consumer Association has consistently worked toward its goal of promoting the interests and protecting the rights of Texas consumers. The legislative activities of TCA at the local, state and federal levels attest to the dedication with which this task is approached.

TCA's legislative committee, which screens legislation from the consumer viewpoint, was instrumental in 1969, and again in 1975 and 1977, in preventing legislation that would have allowed an increase in the consumer credit interest rate limits, already among the highest in the world.

In 1973, TCA lobbied intensely on behalf of the successful Texas Deceptive Trade Practices Act, a seminal piece of legislation which greatly expanded consumer rights in the area of unethical business practices.

The 1975 session of the Texas Legislature found TCA lobbying for consumer-oriented amendments to the Deceptive Trade Practices Act. Among those amendments were provisions bringing certain businesses within the meaning of "consumer," and bringing land sales within the scope of the Act. Perhaps the most important work of TCA during the 1975 Texas legislative session was its successful lobbying for passage of the Public Utilities Commission Act.

At the end of the 1977 legislative session, however, TCA reported that it had been one of the worst for Texas consumers. While TCA did contribute to the successful passage of a few strong bills dealing with deceptive trade practices, most of its efforts were geared towards success defeating anti-consumer bills, including two loan shark bills and two bills which would have lessened consumers' rights in product liability cases.

On the federal level, the Texas Con-

sumer Association has lobbied before Congress and participated in a number of federal rule-making proceedings on behalf of its consumer constituents. TCA representatives have recently appeared before the U.S. Senate Consumer Affairs Subcommittee to oppose major changes in the federal truth-in-lending regulations which TCA believes would lead to increased fraud and usury; before Congressional Banking Committees to request consumer safeguards in the proposed Electronic Funds Transfer Systems now being touted by the banking industry; and before the Federal Trade Commission rule-making hearing on Fair Credit Practices to suggest changes in the credit contract area that would be more just to consumers. Plans are now being made for TCA to testify at upcoming FTC hearings on its Mobile Home Rule.

Other recent efforts of the Texas Consumer Association on the national level have included participation in last summer's "Nickel Campaign" in support of an Agency for Consumer Protection, and support for the U.S. Department of Transportation's passive restraint auto safety standards.

Another area of activity for the Texas Consumer Association is investigation of consumer complaints. TCA has intervened as a 'friend of the court' and filed briefs in cases involving rebating unearned finance charges in consumer credit transactions, the enforceability of the Texas Consumer Credit Code for technical violations (this case is now

pending before the Texas Supreme Court), deceptive trade practices and product liability. Many of these consumer complaints led directly to the formation of TCA's legislative priorities.

Unfortunately, TCA shares with other consumer advocacy groups the problem of insufficient funding. Even though TCA's membership is steadily growing, dues from individuals are simply not enough to support the increasing need for consumer representation and education at the local, state and national levels. Although TCA's first attempt to secure a federal grant for a statewide consumer education project was unsuccessful, it does plan to submit additional grant proposals for this purpose in the near future.

Approximately 1,000 members now belong to the Texas Consumer Association, including many professionals and specialists who contribute valuable expertise in consumer affairs. All parts of the state are represented on its 55-member volunteer board and local TCA chapters exist in several of the major metropolitan areas.

TCA's office is located at 711 San Antonio Street, Austin, Texas 78701, phone: (512) 477-1822. Membership dues, which include a subscription to the *Consumer Watch*, are \$7.50, basic membership; \$3, senior citizen/student; \$10, joint membership; \$25, organization under 25 members; and \$50, organization over 25 members.

## Consumer Calendar

### July 5-8

The Conference on Alternative State and Local Public Policies will feature Reverend Jesse Jackson, and commentator Sandor Vanocur at its annual meeting July 5-8 at the Hilton Hotel, Denver, Colorado. Workshops, seminars and working sessions are scheduled to include such issues as nuclear waste disposal, mental health, property tax reform, state education finance reform, who owns America's farmland, legislative uses of television, inflation and the decline of the dollar, and federal preemption. For more information write to: Ann Beaudry, Conference on Alternative State and Local Public Policies, 1901 Q(ue) Street, N.W., Washington, D.C. 20009. Telephone: (202) 234-9382.

### July 13-16

The Fourth Annual National Conference on Alternative State and Local Public Policies will feature discussions of alternative policies that can be implemented on the state and local level aimed at solving social and economic problems. A number of nationally known speakers will participate, including Carol Bellamy, President of the New York City Council; Tom Hayden, California Campaign for Economic Democracy, and Koryne Horbal, Democratic National Committeewoman. The con-

ference scheduled for July 13-16, will be held at Concordia College in St. Paul, Minnesota. For more information and a registration form contact: Conference/Alternative State and Local Public Policies, 1901 Que Street, N.W., Washington, D.C. 20009. Telephone (202) 234-9382.

### August 19-20

CFA's Paul Douglas Consumer Research Center's National Community Consumer Education Project (NCCEP) sponsors its third and final regional conference this year at the University of Portland in Portland, Oregon, August 19-20. The conference, also being co-sponsored by Oregon Consumers League, will feature information on both issues and effective strategies in the areas of complaint resolution, food, energy, housing, utilities, among many others. For more information, contact Janet Jernigan or Sherry Lindquist at the Douglas Center (202) 347-5813 or Elson Strahan, Oregon Consumer League, 519 Southwest 3rd Street, Rm 412, Portland, Oregon 97204. Telephone (503) 227-3882.

### October 12-15

The National Coalition of Hispanic Mental Health and Human Services Organizations (COSSMHO) will sponsor its National Hispanic Conference on

Families, October 12-15 at the Whitehall Hotel, Houston, Texas. The Conference will focus on the areas of health (including mental health, alcohol and drug abuse), welfare, employment, civil rights, juvenile/criminal justice, media images/stereotypes and societal attitudes. Workshops will also look at various service programs including child health assessment, crisis intervention, services for the elderly, family service centers, health education and health planning. For information write to: COSSMHO, 1725 K Street, N.W., Suite 1212, Washington, D.C. 20006. Telephone: (202) 466-2260.

## Regional Conferences

This year, for the first time, CFA's Paul Douglas Consumer Research Center is holding consumer education conferences outside Washington, D.C.

The new regional conference program is part of the Center's National Community Consumer Education Project (NCCEP), which is funded by a grant from the U.S. Office of Consumers' Education. The program was established both to involve more groups in NCCEP conferences (transportation, (Continued on page 13)



## FTC Considers Restricting "Sugar-Coated" Children's Advertising

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sume snack foods that are the most likely to cause tooth decay.

The FTC staff indicated that the legal basis for a ban on these advertisements is that the ads "offend public policy" and are "immoral, unethical, oppressive and unscrupulous" in that they induce defenseless children to gamble with their health. "Additionally, such advertising has a cumulative deceptiveness greater than that of a single commercial in that it erects . . . a barrier to the adequate public knowledge and appreciation of the health hazards of consuming the advertised products."

### Counter Advertisements

The third proposal is that advertisements for sugared foods not covered by a ban be balanced by commercials with nutritional and health information. The FTC staff has recommended several possible methods by which this information might be presented, such as disclosures accompanying the sugared food ad itself, or separate public service announcements. Other suggestions include limiting the amount of television advertising for sugared foods per time segment of children's programming, or limiting the techniques used in advertising.

The affected industries will stress

their own ability to regulate children's advertising without governmental intervention, and will claim that a total ban or a restriction on certain kinds of advertising will violate their first amendment rights.

It should be noted that the present Code of the National Association of Broadcasters includes some general standards on advertising quality, but includes nothing as strict as the FTC proposals. The FTC Staff Report also indicated that "full capacity for individual choice . . . is the presupposition of First Amendment guarantees." This premise, continued the Staff Report, is inapplicable to audiences of children who "lack the perceptual ability, experience, maturity of judgment, evaluative capacity, and rational decisionmaking processes that are ordinarily presumed as to adults."

The FTC is encouraging public comment on all of these issues. Because of the present paucity of scientific data, the Commission is particularly interested in receiving comments and accounts of personal experiences from parents, dentists, doctors, teachers, and children themselves on:

- children's attitudes about eating sugared foods;
- how frequently children request

sugared foods advertised on television, and how frequently parents "give in" to those requests;

- whether young children understand the selling purposes of ads; whether they discriminate among the foods and toys they request or whether they are really manipulated by the advertising they see;
- the foods children buy with their own money;
- the problems of tooth decay;
- the role the FTC should play in regulating children's advertising.

Consumer Federation of America strongly endorses the proposal made by the FTC staff. CFA is particularly concerned about advertisements for products like sugared snack foods. Consumption of these foods causes health risks that are not disclosed, and because of the special vulnerabilities of very young consumers, even mandatory health disclosures would not be appreciated. CFA urges its members to support the proposed rule and, in particular, to write to the FTC expressing their opinions on the subject.

The Commission has already voted 4-0 to start the proceedings. However, its final ruling is not expected for two years. Public hearings will be the first step in the process.

Your views could have a major impact on the outcome of this rulemaking proceeding; the Commission may be particularly persuaded by its perception of the public's reaction to the FTC staff proposals.

Send written comments, exhibits, and requests to appear at a later legislative hearing accompanied by a verbatim statement to: Morton Needelman, Presiding Officer, Children's Advertising, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. To assure prompt consideration, identify comments as "Children's Advertising Rule-making Comment." These submissions for the record must be received by October 24, 1978. Hearings will be held in San Francisco on November 6, 1978, and continue in Washington, D.C. on November 20, 1978, ending no later than December 16, 1978.

*CFA is grateful to Ann Franke, fellow at Georgetown Law Center's Institute for Public Interest Representation, and Bonnie Gottlieb, Georgetown law student, for providing the information contained in this article.*

## CFA Awards Dinner

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ing proponent in the House for no-fault insurance, one of CFA's top priorities. He has also taken strong stands for consumers on such issues as consumer class action legislation, automobile passenger safety restraints, and toxic substances control.

Eckhardt reflected that he was deeply moved to receive the Philip Hart award, particularly because two of his favorite people were Phil and Janey Hart. He comically said, "Every time I saw Phil, he greeted me with, 'Well Bob what are you doing over in the House to get No-Fault moving?'"

Peterson began her career of consumer advocacy as a lobbyist for the Amalgamated Clothing Workers of America and the Industrial Union department of the AFL-CIO. Under President John F. Kennedy she served as Assistant Secretary of the Department of Labor. In 1964, President Lyndon Johnson appointed her to the newly created post of Special Assistant to the President for Consumer Affairs. In addition to chairing many special commissions and task forces, Peterson has served as President of the National Consumers Union. Most recently, President Carter appointed her Special Assistant for Consumer Affairs.

In presenting the Distinguished Consumer Service Award to Peterson, Clayman of the AFL-CIO, reminisced about the years he served as her boss at the AFL-CIO. Some of the most moving and inspirational remarks of the evening

came from Esther Peterson as she reflected, "In the past the media characterized CFA as a little David fighting the Goliath of Corporate America. This analogy has never been more appropriate. Although the opposition has more economic power, consumer advocates have a motivation and dedication which moves them to work long hard hours out of love."

This year's recipient of CFA's media award was consumer reporter Michael Conlon, honored for his journalistic

excellence in covering consumer issues. Conlon has worked for UPI for the past 15 years. In the past 5 years, he has reported the Washington consumer scene. It was fitting that Rhoda Karparkin, Executive Director of Consumers Union, presented the award to Mike. Not only was Consumers Union the first recipient of the award, but also Rhoda served as CFA's first attorney and drafted CFA's articles of incorporation.

In speaking about the news industry, Mike explained, "Five years ago the

consumer issues made front page news. Within the past two years, it's lucky if this type of information even makes the news." Conlon charged the audience with a task, "You must be more willing to educate the people and the media."

The evening was a glimpse at the development of the consumer movement. At each place setting was a CFA history book which chronicled the issues, accomplishments, faces and the memories that have been a part of CFA.

## Grassroots Activists Meet

(Continued from page 2)

Tuesday morning, Esther Peterson, Special Assistant to the President for Consumer Affairs, addressed the conference, outlining the federal government's efforts to aid grassroots consumers.

Highlighting the conference program were some 25 workshops on such diverse consumer concerns as participating in federal and state regulatory proceedings, organizing alternative food processing and marketing mechanisms, and handling consumer complaints. One series of workshops offered information/strategy updates on issues of concern, including telecommunications, product liability, electronic funds transfer systems (EFTS), gas and electric rates, alternative energy, nutrition education, and health care. A second series focused

on skills needed to implement effective programs; "Training Staff and Volunteers," "Finding Appropriate Materials for Grassroots Consumer Education," "Consumers and Professional Media," "Preparing Newsletters and Other Consumer Education/Information Materials," "Effective Lobbying," and "Research for Consumer Action" were among workshops in this series.

The conference closed with sessions on "Fundraising skills," scheduled in response to the great demand from grassroots consumer leaders for information in this area. Each panel member offered an "overview" of his/her area of expertise in the general session, and then led a separate discussion session which explored the topic in greater detail. Bob Creamer of the Midwest

Academy described grassroots fundraising and membership campaigns; Barbara Helmick, President of the Women's Resource Center in Fort Lee, New Jersey, looked at canvassing; and Eve Berry and Steve Rudman of the Grantsmanship Center, discussed government grants and foundation grants.

"Expanding Consumer Power at the Grassroots," an activity of the Douglas Center's National Community Consumer Education Project, (NCCEP), was funded through a grant from the U.S. Office of Consumers' Education. A summary of the proceedings of the conference will appear in a special issue of THE ACTION FACTION to be published next fall.



# Consumer Resources

## Credit Insurance

*Credit Insurance: A Handbook for Consumers* has been released by The Paul Douglas Center's National Community Education Project. Often the role that credit plays in the borrowing process is not understood by consumers. Credit life and credit disability insurance designed to protect the insured consumer against the contingency of non-payment of a loan due to death, illness, or disability, have continued to dramatically expand in sales over the past few years. Unfortunately widespread instances of abuses in the marketing of such insurance have been documented. Practices such as premium overcharges, sales coercion, hidden exclusions, and excessive industry profits have continued unabated, partially due to consumers' lack of knowledge concerning credit insurance.

Designed to introduce consumers to the credit industry, *Credit Insurance: A Handbook for Consumers* describes the types of policies and coverage offered, frequent abuses in credit insurance transactions, and states' efforts in regulating the field. Also, ways in which consumer groups can work to bring about reforms are suggested. The publication was prepared by Elizabeth Williams, former research director of the Douglas Center, under a grant from the U.S. Office of Consumers' Education, and is available (free), to nonprofit groups and educators from the National Community Consumer Education Project, Paul Douglas Consumer Research Center, 1012 14th

Street, N.W., Washington, D.C. 20005. (Individuals and groups on the Action Faction mailing list have been sent copies).

## Midget Encyclopedia

Questions about how to eat a safer more nutritious, and less expensive diet are answered by the new "Midget Encyclopedia of Food and Nutrition" published by the Center for Science in the Public Interest. The "Encyclopedia" consists of five clearly written brochures which are titled: "A Five-Minute Course in Nutrition," "What's Left to Eat—A Public Service Message for Bored Tongues," "The Ungreasy Spoon," "Chemical Cookery," and "The Food Biz—Or Whatever Happened to Farmer Brown?"

"Concise, accurate, realistic and even funny, the 'Midget Encyclopedia of Food and Nutrition' provides the average consumer with the necessary facts about food, nutrition and the food industry stimulating him/her to pursue better diet habits and a better understanding of America's food and agriculture system." Copies of the easy to understand and cleverly illustrated booklets may be obtained by sending \$1.00 per encyclopedia (five brochures) to CSPI Dept. H, P.O. 3099, Washington, D.C. 20010.

## Access

Thirty-six million disabled Americans comprise the largest minority in the United States today. *Access The Guide to a Better Life for Disabled Ameri-*

*cans* by Lilly Bruck is full of information on how disabled citizens can use their legal and social rights to become more active citizens and consumers. The book covers such topics as: how to cut health care costs; how to make the most of government agencies; complaining successfully; barrier free travel—how to go, where to stay, utilizing museums, libraries, theaters, special tax benefits, how to vote, and the latest miracles in technology for disabled consumers. *Access* is encouraging and informative for the disabled citizen who wishes to learn how he/she can participate wholly and productively in the mainstream of American life. Cost: \$12.95, \$5.95/paper from David Obst Books Random House.

## Federal Warranty Law

THE NEW FEDERAL WARRANTY LAW: A GUIDE TO COMPLIANCE by Lewis M. Popper is a practical discussion of the comprehensive new federal law and regulations governing written warranties on consumer products ranging from mobile homes, boats, and automobiles to toys, photographic chemicals and food. The article presents a brief overview of the regulatory scheme, applicable to particular warranties and service contracts, describes the content of those requirements, and then discusses the private and governmental remedies available to enforce their terms. To obtain a copy of this booklet, contact: *The Business Lawyer*, c/o Section of Corporation, Banking and Business Law, American Bar As-

sociation, 1155 East 60th Street, Chicago, Illinois 60637.

## Food

CONFERENCE ON THE FOOD SYSTEM IN THE CITY is the publication of the proceedings of a recent conference held by Community Nutrition Institute (CNI) on the Food System in the City. It contains a detailed examination of why urban food distribution is deteriorating. The publication also examines several community programs in urban areas which are successfully reversing the trend, and which point to new techniques and methods for other communities to use. Cost: \$25 from Community Nutrition Institute, 1910 K Street, N.W., Washington, D.C. 20006.

## Land Use

LAND USE CONTROLS IN THE UNITED STATES: A Handbook of the Legal Rights of Citizens by the Natural Resources Defense Council, Inc. (NRDC) focuses on federal legislation, and its implementation as well as state, regional and local environmental laws. Topics covered include: constitutional issues, land use aspects of air and water pollution control, offshore oil drilling, wild and scenic rivers and coastal zone management. Each chapter includes a "citizen action" section which sets out in clear and simple terms how citizens can participate in the implementation and enforcement of the law. Cost: \$7.95 (paperback), \$15.95 (hardcover) from Natural Resource Defense Council, Box B, 15 W. 44th Street, New York, N.Y. 10036.

## New Faces at CFA

New faces abound in the CFA office. Gerald F. Hogan joins CFA as Co-legislative Director. Jerry replaces Linda Hudak who is now with the U.S. Department of Energy.

A 1972 graduate of the University of Notre Dame, Jerry earned a law degree from the University of Toledo College of Law. During law school he worked as Director of the Lawyer Referral Service of the Toledo Bar Association.

He is currently working on a number of legislative issues, including the Consumer Cooperative Bank Bill, electronic funds transfer systems (EFTS), public financing of Congressional candidates, and the overturn of the *Illinois Brick* case.

Paula Budin, a recent addition to the CFA staff, will serve as Assistant to Executive Director, Kathleen O'Reilly. A native of Binghamton, New York, Paula, following graduation from Long Island University, taught emotionally disturbed children on the elementary and high school level. She has also worked at a suicide crisis center, and recently at the Direct Mail Marketing Association.

Linda Ward, a native of Washington, D.C., is the new editor of the "CFA News," taking over for former editor and Information Director, Kathleen

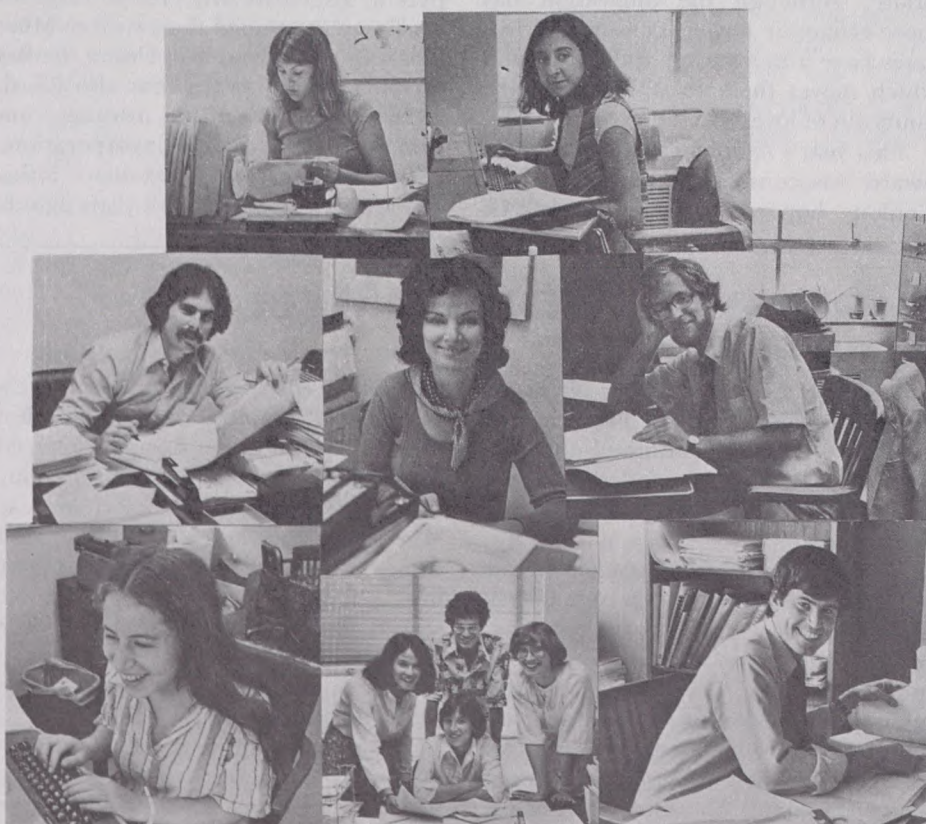
Sheekey. Kathleen will now serve as Co-legislative Director with Jerry Hogan. In addition to her responsibilities on the newsletter, Linda will handle CFA's bookkeeping.

A former student at Tulane University in New Orleans, Linda recently received an M.A. from American University. Currently, she is taking paralegal courses at Georgetown University. Before coming to CFA, she was Special Assistant to the Director of Program at the American Association of University Women, and had earlier worked for a variety of trade associations and educational institutions.

David Tochen joined the Paul Douglas Center in January. He serves as Research Director for the organization. On his very first day on the job, Tochen learned how the combination of blizzard and Consumer Assembly can create total chaos in the office. Nonetheless, he has persevered and is presently engaged in a study of state laws, regulations, and licensing boards for six selected occupations.

David is a member of the District of Columbia Bar and a graduate of the National Law Center/George Washington University. He has served as a law clerk to the Administrative Law Judge

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Photos by Amy Rosenthal

## New Staff Members:

Top Left to Right: Mary Walker, Paula Budin, Middle: David Tochen, Linda Ward, Peter Ginsberg, Bottom: Cathy Perlmutter, Jerry Hogan, Center: Interns Amy Rosenthal, Joel Margolis, Kathy McKay, Barbara Hoffman, not shown Debbie Gray, Kate Ascher



# CFA Legislative Wrap-Up

## ANTITRUST

### Illinois Brick Case

The Senate Judiciary Committee met on March 8 to consider legislation introduced by Senator Kennedy (D-MA) which would, in effect, overturn the Supreme Court decision, *Illinois Brick*, in which the High Court ruled that only consumers who purchase directly from a price-fixer can recover damages. The bill, S 1874 would amend the language of the Clayton Act (which provides for the recovery of damages for injuries due to price-fixing), to enable indirect as well as a direct purchaser to recover damages for price-fixing.

In a March 8 letter to Committee members, CFA emphasized the importance of enacting legislation to correct the unfortunate result of *Illinois Brick* and urged the Senators to support the Kennedy bill which CFA considers to be vastly preferable to retention of the status quo because of its explicit intent to overturn *Illinois Brick*. CFA did, however, express concern over a provision which would allow a defendant in a price-fixing case to raise as a defense the fact that the plaintiff had passed on some or all of the damages to persons further down the chain of distribution. This provision would reverse the *Hanover Shoe* case which disallowed this "pass-on" defense as being at odds with the Congressional intent of strong antitrust enforcement.

More importantly, CFA strongly expressed opposition to a provision which would preclude class actions for damages on behalf of natural persons who have not dealt directly with the defendant. This provision would limit enforcement of price-fixing violations to cases in which state attorneys general bring suit under their powers as *parens patriae*. This would virtually eliminate the right of consumers to sue on their own behalf for price-fixing. Particularly in light of the fact that many state attorneys general do not have the resources, or in some cases the interest to sue, many victims of price-fixing would go uncompensated and, likewise, many price-fixers would escape liability.

Although Senator Kennedy moved to report the bill out of Committee, his efforts were stymied by Senator Thurmond's (D-SC) insistence that additional hearings be scheduled.

This request was granted and it was agreed that the Committee would reconvene no later than Friday, May 5 to vote on the merits of the bill. On May 25 the Committee finally convened and, after a 9-5 vote, reported the bill to the floor. The Committee agreed to delete a provision which would bar class actions on behalf of natural persons. In addition, an amendment was successfully defeated which would have

made the bill prospective and thus exclude those cases now pending from being affected.

Since the initial vote was only 7-5, one short of the majority required by the Government Reorganization Act, it was necessary for Kennedy to move for reconsideration after two more supporters arrived. At that point the final 9-5 vote was recorded.

In the House a similar but lengthier bill has been drafted. It is a composite of a Justice Department draft, a draft from Representative Seiberling (D-OH) and previous House drafts.

On April 5 the House Subcommittee voted this version out by a vote of 5-1 bringing the reversal of *Illinois Brick* one step closer to reality. Then, after debating the merits of the bill on June 13, the House Judiciary reported the bill by a 21-12 vote on June 20. An amendment which would have limited the bill to cases brought by states attorneys general was successfully defeated. Thus, the right for individuals to recover on their own behalf was preserved. Since the bill will go to both floors in virtual identical form, prospects are high that the consumers will have a victory in the area of antitrust enforcement by the summer's end.

### Supreme Court

The Supreme Court has continued its assault on class action suits with two recent unanimous decisions on 1) class action notice; and 2) "legal standing" issues. Ruling that the plaintiffs in a class action suit must ordinarily bear the cost of compiling the names and addresses of members of the affected class, the Court reversed two lower Federal Court decisions which had shifted the cost to the defendant. Coupled with a 1974 ruling that plaintiffs must pay for notifying class members that a lawsuit has in fact been filed, and that they may be entitled to recover damages, the decision is viewed as a major setback to the consumer movement. Class actions are particularly important as an effective deterrent in those situations where individuals typically do not bring a law suit because the damages are relatively modest even though cumulatively the violation represents thousands or millions of dollars.

The Court also handed down two decisions that postponed a plaintiff's right to appeal a denial of class-action status until after the trial is completed. In one case the Justices ruled that an order denying class action status to a woman charging an employer with sex discrimination could not be appealed separately from the individual's case. In the other case, the Court stated that requiring the denial of standing to be decided separately "would have seriously debilitating effects on the administration of justice."

## BANKING & CREDIT

### National Consumer Cooperative Bank

On April 6, the Senate Banking Committee voted 10-5 to approve S. 1010, a bill to establish a National Consumer Cooperative Bank to loan seed capital and provide technical assistance to consumer cooperatives. At present, consumer cooperatives (because they are non-profit) have great difficulty securing funds from traditional sources such as commercial banks and savings and loans.

In a March 17 letter to Committee members CFA strongly urged support of the measure which is patterned after the highly successful Farm Credit System. Specifically, CFA supports such cooperatives because they: 1) inject badly needed competition into many segments of the marketplace; 2) provide consumers with more direct control over their own marketplace decisions; 3) provide high quality merchandise and services at low rates; and 4) often provide specialized goods and services to accommodate a particular community demand.

During several markup sessions prior to April 6, proponents of the bill successfully managed to kill a 2-year pilot substitute offered by Senator Tower (D-TX) as well as various crippling amendments proposed by other opponents. The April 6 vote to send the bill to the Senate floor was greeted with enthusiastic applause from those members of the gallery who had fought so hard for its passage. Due to the debates on Panama Canal and Labor Law Reform, however, there is still no definite date for consideration by the full Senate. Proponents of the bill point out the need for continued vigorous lobbying to undermine efforts by the bill's opponents to erode support during this extended delay.

### Electronic Funds Transfer System

The Senate Banking Committee met on March 15 to markup S. 2546, a bill which represents a first step toward addressing consumer concerns regarding Electronic Funds Transfer Systems (EFTS).

In a letter to Committee members, CFA urged support in view of certain provisions contained within the bill which would fill the void that currently exists in terms of protecting consumers against the potential adverse impacts of the technology. Specifically, CFA applauded clauses providing for:

- 1) a \$50 liability ceiling for unauthorized use of the system;

- 2) the ability of consumers to reverse transfers in the event they have purchased defective goods or goods unfit for their intended use;
- 3) a method of expeditious error resolution; and
- 4) a strict prohibition against distribution of unsolicited EFT cards.

Additionally, CFA's letter pointed to the bill's weaknesses. These include:

- 1) the ability of a bank to escape liability if its failure to effect or reverse a transfer resulted from a technical malfunction caused by circumstances beyond its control. CFA objects to imposing losses in such instances on the innocent consumer;
- 2) the exclusion of consequential damages when computing the extent of the bank's liability; and
- 3) the unlikelihood that a \$5,000 penalty for willful violation of the Act would serve as a sufficient deterrent.

Although Senator Riegle has hoped to have the bill marked up and reported out on March 15, that session and seven since were bogged down as a result of various dilatory tactics by minority members. The bill was finally reported out of Committee on April 27th but not until the reversability provision had been deleted.

In early June the House also passed its nearly identical version, H.R. 12775, but again, absent a provision permitting reversability. With both bills on their way to the floor, there is great optimism among supporters that EFTS legislation will be enacted in the near future.

### Truth-in-Lending

Under the guise of "simplification," the Senate passed "The Truth in Lending Simplification and Reform Act," S. 2802, which would reduce requirements imposed under the Truth-in-Lending Act of 1968. CFA believes the effect of the bill would, in fact, gut the original Act since it would eliminate the requirements that lenders itemize the components of the "amount financed" and the "finance charge," both of which have been most effective in preventing overcharges of consumers through inflated sales taxes, transfer fees, insurance charges, and of inaccurate APR disclosures.

Nevertheless, proponents of the bill managed to work the bill through the Senate by arguing that the present law is impossible to comply with and the requirements have overburdened the courts. CFA maintains that compliance is quite possible and is achieved by most creditors. CFA also points out that Truth-in-Lending filings represented only 0.3-1% of all cases filed in federal district court in 1976 and that the figures are declining.

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# CFA Legislative Wrap-Up

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Focus now shifts to the House where Chairman Frank Annunzio (D-Ill.) is determined not to have his subcommittee on Consumer Affairs consider the bill until the next session. CFA is distressed, however, by reports that the Senate Banking Committee as well as certain sources within the Carter Administration have been strongly urging Annunzio to take up the measure. Presumably, the White House is anxious to sign any bill with the word, "simplification," in it so as to lend credence to its campaign platform.

If anything, CFA believes that the present law should be strengthened by including provisions which would increase the statute of limitations to two years and remove the exemption that public utilities presently enjoy. CFA will continue to urge postponement of the bill until the 96th Congress.

## Safe Banking Act

Mark-up of the Financial Institutions Reform Act (formerly called the Safe Banking Act) tediously continues in the House Banking Committee. Several anti-consumer amendments are being considered.

### 1). Variable Rate Mortgages (VRM's)

An amendment directing the Federal Home Loan Bank Board (FHLBB) to authorize federally chartered savings and loan institutions to make VRM's available was accepted by the committee. A vigorous floor fight is expected. CFA and a host of other consumer, labor, women's, and civil rights groups have consistently opposed the VRM.

Under a VRM, the mortgage loan interest rate would fluctuate up and down over the life of the loan according to a specified index. No index yet discussed has been anything but extremely complex. When several indices are available, confusion and the opportunity for exploitation increase.

VRM's are particularly unacceptable because they pose discriminatory effects for racial minorities, women and senior citizens, who traditionally have been unable to demonstrate to cautious underwriters not only that they can meet the current monthly mortgage, but that in addition they will have the upward economic mobility to meet future monthly increases. VRM's also shift the risk from the lender who is best able to evaluate marketplace changes, to the consumer who has the least ability to assess those changes.

Better methods of alleviating the cyclical boom and busts of the housing financial market should be pursued, including tax incentives, direct subsidies, and forms of credit allocations.

So called "consumer safeguards" to accompany the VRM are specious at best. Only extremely comprehensive FHLBB regulations could police their effectiveness and this is a role the

FHLBB has consistently found to be unworkable.

### 2). Residential Mortgage Requirements

Rep. James M. Hanley (D-NY) has won passage of an amendment deleting from the legislation a provision requiring mutual savings banks to commit 60% of their portfolio to primarily residential mortgages upon conversion to a federal charter. Currently less than half of their portfolio are committed to this area. Efforts will be made to reinstate the requirement.

### 3). Justice Department Antitrust Authority over Interlocks

The Banking Committee approved an amendment introduced by Rep. Gary Brown (R-Mich) which dilutes the Justice Department's authority to enforce long-standing antitrust laws prohibiting bank interlocks. As the bill now stands the Justice Department could only become involved when—and if—the banking agencies see fit to refer an antitrust case, although Rep. Fernand J. St. Germain (D-R.I.) promises a floor fight to tighten that provision.

### 4). Public Disclosure of Insiders' Information

The consumer movement won a victory with committee approval of a provision requiring prominent public disclosure of information relating to insiders' financial relationships with the bank and the condition of the bank.

### 5). Public Interest Organization Rights

A provision providing the public, including consumer organizations, with the right to contest orders and regulations of the Federal Reserve Board regarding bankholding company acquisitions has been defeated by the Banking Committee.

## ENERGY

### Coleman Confirmed

Despite strong consumer opposition, the Senate, by a vote of 75-20, confirmed Lynn Coleman as General Counsel of the Department of Energy (DOE) on May 8th. A broad-based group of consumer, labor, farm and public interest organizations had called upon the U.S. Senate to reject the nomination because of serious conflicts of interest resulting from his representation of energy companies before the courts and federal agencies. Labeling Coleman an "active advocate on behalf of the industry his General Counselship would require him to regulate and prosecute," the groups charged that Coleman "cannot perform effectively in a governmental position requiring him to regulate and prosecute the very industry

whose self interests he has been advocating."

As a partner in the Houston-based law firm of Vinson and Elkins, Coleman's specific actions included arguing before the Federal Power Commission (FPC) and the courts against the concept of cost-based natural gas pricing; supporting the circumvention of FPC regulations by gas producers which resulted in overcharging consumers about five cents per thousand cubic feet; resisting FPC attempts to obtain gas reserve data; and lobbying for Houston Natural Gas to make permanent the FPC's temporary emergency rates for sales from intra to inter state pipelines.

It is hoped that the intense consumer opposition to his nomination will put Coleman on notice that consumers will be very carefully monitoring his activities as General Counsel and that a more objective stance by Mr. Coleman is desired.

### FERC: A Victory

In a major victory for consumers, with potentially broad implications for national energy policy, the Federal Energy Regulatory Commission (FERC) reversed a prior Federal Power Commission (FPC) decision and ruled unanimously on March 20th that natural gas producers operating on the federally-owned Outer Continental Shelf must deliver *all* offshore gas to the interstate market, rather than retain a portion of this gas for the producers' own use onshore. FERC cited both the continuing shortage of natural gas on the interstate market and possible anti-competitive effects of FPC policy as major factors in its decision.

The decision represents a victory for the Natural Gas Consumers Coalition, a broad-based coalition of over 90 consumer, public interest, labor, farm, municipal groups and public officials, orchestrated by Ellen Berman of the Energy Policy Task Force, Jim Flug of Energy Action and Marty Rogol, then of Congress Watch. The Coalition petitioned FERC to take such action November 14th. This reversal of former FPC policy, by itself, should make available approximately 145 billion cubic feet of gas a year to the interstate market. This represents as much gas as was purchased, at greatly increased prices, from the intrastate market under emergency sales provisions during the 1976-77 winter shortage.

Thus, according to the Energy Policy Task Force and other consumer-oriented organizations, effective Administrative action can be even more effective in meeting our nation's energy supplies than legislative action calling for vastly increased prices and no assurance of increased supply.

### COET Opposition

Although a break in the impasse concerning natural gas pricing sections

of the National Energy Plan was supposed to lead to quick agreement and approval of the final section of the bill remaining—the Crude Oil Equalization Tax (COET) new road blocks have been thrown up by several key political figures, including Senator Russell Long (D-La). Long held that constituent uneasiness over increases in Social Security taxes has raised grave doubts about the wisdom of imposing this additional tax, which is ostensibly designed to conserve energy through pronounced increases in the price of crude oil. Other politicians have directly cited the fact that 1978 is an election year as a major factor in uneasiness over COET, which carries a \$40 billion price tag for consumers over its 3-1/2 year life.

Although the White House has conceded that opposition to COET is substantial, the Administration retains hopes that it can hold those members firm behind the tax through one of a series of possible compromises. COET was dealt a blow, however, when House Speaker Tip O'Neil (D-Mass) publicly announced he would split COET from the other four sections of the bill, and deal with it separately. As a result, the tax may be dropped. Consumer groups are hoping that continued strong opposition to the tax will result in its defeat.

### OCS Leasing

After several weeks of political squabbling over the makeup of the Conference Committee, a House-Senate Conference finally sat down on May 3rd to begin what are expected to be intense negotiations over leasing procedures on the federally-owned Outer Continental Shelf (OCS). Since it is estimated that one-third of the nation's future discoverable and produceable oil and over 20% of future natural gas reserves are found on the OCS, the final outcome of the bill has far-reaching implications for domestic energy policy.

February 2, House approval of a heavily amended bill, HR 1614, represented a compromise with the oil industry. The Senate had passed a considerably stronger bill than the House, with stringent limitations placed upon use of a cash-bonus bidding system and exploratory drilling prior to accepting lease bids.

CFA, Energy Action, Environmental Policy Center, numerous labor organizations and other consumer and environmental groups are vigorously supporting a Conference agreement as close to the Senate bill as possible. The key issues for consumers are reform of the cash-bonus bidding system under which most OCS lands are leased, and the need for government exploration of OCS resources, in order to determine their extent and value prior to leasing. The Task Force and other groups argue that use of the cash-bonus bidding system has resulted in government acceptance

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# CFA Legislative Wrap-Up

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ing unreasonably low lease bids, thereby providing huge profits to the oil companies at the public's expense. (Furthermore, requirement of cash on an "up-front" basis precludes smaller oil companies from viably competing with larger companies.)

Although it would normally be expected that a final rendition of the bill would represent a compromise between the two versions, close observers became less hopeful. Senate sentiment for a tough bill appeared less firm than originally when the bill cleared the Senate floor. Observers winced when recently conferees accepted an amended proposal offered by Senator Jackson (D-Washington). The Jackson proposal limits use of a new bidding system of not less than 20% but more than 60% of the time, applicable to all areas. Nevertheless, consumer and environmental groups plan to forge a strong coalition to bring heavy pressure on Conference members to approve a bill with enough teeth to effect a real policy change in this critical area.

## Costly Natural Gas Compromise

Following a flurry of secret closed-door sessions, House and Senate Energy Conferees have at long last agreed to a natural gas pricing scheme, the enactment of which would represent major cost increases for consumers. The House approved the accord 13-12 on May 24 and the Senate 10-7, the following day, after intensive lobbying by the Administration in favor of, (and by consumers against), the proposed compromise. The swing vote in the House was Rep. Henry Reuss (D-Wisc.) who had been wavering between opposition and acquiescence to various compromises, but who finally voted for the compromise after intense White House pressure.

The compromise calls for an immediate price jump and phased deregulation of natural gas prices. In opposition to the compromise, CFA held that the agreement would cost consumers at least \$20 billion more than the House-passed bill and over \$40 billion more than the status quo. Consumers across the nation would be far better off with no bill at all than with a bad bill approved merely for the sake of having legislation. The compromise establishes price levels that bear no relationship whatsoever to costs of production, immediately setting new natural gas prices higher than the current unregulated intrastate market price, and provides no effective consumer protection provisions.

On June 19, DOE's Energy Information Administration (EIA) released an analysis of the natural gas pricing compromise. The analysis was prepared at the request of Senator Henry Jackson (D-Wa). It concluded that the compromise was costlier for residential con-

sumers than either the House or the Senate bills, while less costly for industrial users than the other bills. Furthermore, EIA concluded that the compromise would cost consumers \$29 billion more than if no legislation were passed at all.

## The Agreement

The provisions of the agreement are deceptively vague, with price changes and the resulting costs to consumers varying significantly depending upon the classification and definition of the gas involved. The classification system employed in the agreement would ensure that practically all gas comes under the definition of "new gas" or receives the highest possible price.

The key category of this accord is a "new" natural gas pricing. Under the compromise, price controls would be retained until January 1, 1985 on the first sale of more broadly defined "new natural gas." A natural gas price ceiling of \$1.75/mm-Btu's would be effective as of April 20, 1977. Prices would continue to increase by 3.5% annually plus the rate of inflation through April 20, 1981. From April 21, 1981 through the end of 1984 prices would rise to about \$1.93/mcf which even higher than the deregulated intrastate market price for the new gas sales.

There need not be a natural gas bill to provide adequate supplies to consumers. The new Federal Energy Regulatory Commission (FERC) reversed a prior FPC decision and ruled that all gas produced on offshore areas must be delivered to the interstate market with no portion retained by producers for their own on shore operations. With Administrative action being taken, legislation is not required.

The EIA analysis also found that the latest compromise would result in only a minimal increase in production over the level anticipated if no legislation were enacted. Senators James Abourezk (D-S.D.), Howard Metzenbaum (D-Ohio) and Wendell Anderson (D-Minn.) charged in a press conference that this increased production would cost consumers the equivalent of an incredible \$46 per Mcf.

Chances for passage of the compromise appear likely, however, as many energy-weary Congressmen may vote for the new compromise in order to get any bill at all passed. Nevertheless, the road will certainly not be a smooth one. The House and Senate will probably not act on the compromise for at least 1-2 months, as preparation of the Conference report will be a difficult and lengthy process.

Opponents of the agreement, including Senators Metzenbaum, Abourezk, and Anderson, seem certain to wage a filibuster on the Senate floor. Since the outcome of the natural gas agreement may significantly determine the scope of our nation's future energy policy, CFA and other consumer-oriented groups

will be opposing the agreement and supporting the filibuster on the Senate floor, already gearing up for a final drive to attempt to form a national energy policy that ensures adequate supplies and is fair to consumers.

## FOOD

### Emergency Farm Legislation

On April 12 the House rejected the Conference Committee's report on the Emergency Agriculture Act (H.R. 6782) by a vote of 150 to 268. The measure was actively opposed by CFA as a cruel hoax on farmers and consumers alike. Its champions in Congress knew that the bill was so excessive that it never had a realistic chance of passage. Thus they had hoped to ensure the political support (i.e. November votes) of the farm community with no serious erosion of urban support because the bill would never become law.

It was projected that the bill

1) would have cost the average American family \$100-\$200 during 1978, increasing dramatically the price of meat and dairy products which are staple goods, not luxury items. Senior citizens and low-income consumers would have been particularly hard hit by these price hikes;

2) would have cost taxpayers between \$2-6 billion dollars for the programs encompassed in the legislation; and

3) could because of its incentive for major acreage reduction, have left consumers unprotected against future shortages of agricultural goods if, for example climatic disasters, such as drought, occurred.

CFA attacked the 95th Congress for not having taken action against the corporate interests which are chiefly responsible for high food prices. Congress has created no comprehensive energy plan, no new rules against anti-competitive surface transportation regulations, no regulations against excessive packaging or deceptive advertising, all of which cost consumers millions of dollars annually.

### Inspection and Labeling of Imported Meat

Since imports account for approximately one-third of the cattle and beef consumed in this country, CFA is vitally concerned that standards for imported meat products measure up to the high standards required for domestic meat products.

For that reason CFA submitted comments on May 25 to the Subcommittee on Trade of the House Committee on Ways and Means expressing strong support of the labeling and inspection

provisions included in H.R. 12129 and H.R. 12239.

These provisions accommodate two major concerns of CFA regarding imported meat:

1. Inspection requirements for imported meat should be as stringent as those required for domestic meat. (Examination of the current inspection systems reveals a serious disparity between inspection standards imposed on domestic meat products and those for imports.)

2. Imported meat and meat products should be clearly labeled "imported" or "imported in part." (Truth-in-labeling is a principle which CFA has always vigorously advocated. The consumer has a basic right to know if the meat product consumed is imported.)

The Subcommittee on Trade has not yet scheduled a mark-up session on H.R. 12129 and H.R. 12239.

### Sugar Stabilization Act of 1978

In testimony before the Senate Finance Committee on May 11 Legislative Director Kathleen D. Sheekey raised CFA's objections to S. 2990, the Sugar Stabilization Act of 1978.

1. *The cost of sugar to consumers would drastically increase.* Based on estimates of the President's Council of Wage and Price Stability, the restrictions on imports provided by the Sugar Stabilization Act of 1978 would raise the price of raw sugar from its present level of about 14¢/lb. to 17.5¢/lb. This 3.5¢/lb. increase would raise the costs to consumers for sugar subsidies to \$2.4 billion annually and add a full percentage point to the Consumer Price Index for food.

2. *Cost of corn sweeteners would also rise.* Any measure designed to raise the price of sugar above reasonable levels is likely to result in a further increase in the use of sugar substitutes such as corn syrup. In opening the door to this heavy competition, the supporters of S. 2990 could actually push out the sugar farmers they were intending to help.

3. *Costs would be disproportionately borne by low-income consumers.* Studies by the U.S. Bureau of Labor Statistics show that sugar accounts for a larger percentage of the budgets of low-income consumers than other segments of our population. Therefore, those who can least afford it will be hardest hit by rising sugar prices.

4. *The Future of the International Sugar Agreement will be seriously jeopardized.* Although a stated purpose of S. 2990 is to implement the International Sugar Agreement, the objective being to stabilize world prices, passage of S. 2990 would drastically decrease U.S. sugar imports and thereby seriously compromise the fledgling ISA's intent.

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5. *Sugar workers would not benefit from increased sugar prices.* Since workers did not even benefit from the 1974 sugar price explosion, it is highly unlikely that passage of S. 2990 would result in increased wages for sugar workers.

6. *Higher prices will not result in reduced consumption.* Although CFA is firmly committed to measures which will educate consumers in a meaningful way of the health risks associated with sugar (e.g., restricting TV advertising of heavily sugared products to children), we are unconvinced that supporting higher sugar prices will discourage consumption. This was not the case when prices soared in 1974.

Sheekey recommended to the Committee CFA's preference of an interim program which maintains market prices at about 13.5¢/lb. consistent with the minimum ISA price. If cost of production should rise above this market price, then a system of direct payments should be used to compensate efficient producers for the difference.

Mark-up of S. 2990 is not yet scheduled by the Senate Finance Committee. CFA commented on similar measures, H.R. 12486, 12667, and 12604, when they were before the House Committee on Agriculture. They also await mark-up.

The House bills, as well as an Administration bill submitted on request by Representative Vanik (D-OH), are scheduled for hearings in July before the Subcommittee on Trade, Committee on Ways and Means, to which they were jointly referred.

## Nutrition Information Act

In testimony before the House Agriculture Committee's Subcommittee on Domestic Marketing, Consumer Relations and Nutrition, Legislative Director Kathleen D. Sheekey expressed CFA's support for H.R. 11761, the National Consumer Nutrition Information Act.

H.R. 11761 would designate the U.S. Department of Agriculture as the lead agency in coordinating the various nutrition education programs conducted by the federal government. It would also empower USDA to:

- Establish a council composed of government, industry and consumer representatives that would formulate a national policy on nutrition education.
- Conduct pilot projects on the best ways of delivering popular information about diet and health.
- Test and evaluate an alternative to the current labeling scheme that lists grams and percentages for various nutrients. The experiment—which would try out a scheme of graphics—would be done on bulk fruits and vegetables so as not to conflict with existing packages and cans.

- Initiate attractive public service television announcements that would compete successfully with commercial advertisements.

CFA's recommendations for strengthening or modifying the bill are as follows:

- that special attention be given to disadvantaged population groups, namely low-income and senior citizens, who stand to benefit most from nutrition information.
- that a majority of the National Education Council be representatives of recognized consumer groups and that these members be compensated not only for their attendance time at meetings but also for reasonable preparation time and followup activities.
- that the farmer representative on the Council come from the ranks of small to moderate family farmers, not corporate farming interests.
- that non-profit, industry-dominated trade association, such as Grocery Manufacturers of America, not be considered as eligible applicants for conducting demonstration projects on the grounds that they are inappropriate recipients of taxpayer dollars.

Although the Consumer Subcommittee approved the bill by an 8-2 vote, the House Agriculture Committee voted 20-19 on May 16 to return the bill to the Subcommittee for further hearings on June 27 and 28. Their decision was the result of heavy pressure by the egg and cattle industries which claim that their views were not adequately represented at the Subcommittee hearings. They contend that the bill would open the door to persuading people to reduce their consumption of fats and cholesterol.

## Superdonut

A dangerous and reprehensible trend is gaining popularity on Capitol Hill these days—the practice of using the appropriations process to prohibit the use of an agency's funds for implementing a proposed regulation.

One of the latest evidences of the movement is an attempt to block the U.S. Department of Agriculture from withdrawing formulated grain-fruit products (often called "superdonuts") from government-sponsored school breakfast programs. Despite public comment overwhelmingly supportive of banning the product, report language introduced by Representative Jamie Whitten (D-MS), Chairman of the Subcommittee on Agriculture of the House Appropriations Committee, and approved by the full Committee, takes that authority out of USDA's jurisdiction and leaves it to the discretion of local school officials.

In a June 12 letter to House Appropriations Chairman George Mahon,

CFA based its support for the superdonut ban on the following considerations:

1. The fortified grain-fruit product is high in both sugar and fat content. Sugar and fat consumption in the United States is already high and has contributed greatly to many of our country's nutritional problems, such as obesity, heart-disease, diabetes and tooth decay.

2. USDA's goal is to make child nutrition programs an integral part of the total educational setting. However, the serving of sweets at breakfast is a direct contradiction to nutritional instructions in the classroom, and may contribute to a lifetime of poor eating habits.

3. In 1973 USDA allowed the grain-fruit product to be served with milk in the school breakfast program because it combined the fruit/juice and bread/cereal meal requirements into a convenient serving item for those schools without adequate meal preparation facilities. Evidence indicates, however, that of the schools serving this product only a very small number are using it because they have no service facilities. It also seems clear that programs without regular facilities can serve a cost-effective, nutritious and equally convenient breakfast without serving the formulated grain-fruit cakes.

4. At a time when farmers are desperately in need of support, use of the grain-fruit product decreases demand for farm commodities. USDA estimates that by purchasing grain fruit products, consumption of orange juice or any fruit or vegetable component is decreased by \$1.7 million during any given year.

Since the Senate Appropriations Committee has not yet considered USDA's appropriations, it is hoped that stronger action by the Senate will prevail in USDA's interest.

## Deboned Meat

On June 20 the U.S. Department of Agriculture announced its decision to allow the production of "Mechanically Processed (Species) Product MP(S)P, previously called mechanically deboned meat or tissue from ground bone. MP(S)P is the product resulting from the mechanical separation and removal of most of the bone from attached skeletal muscle tissue.

USDA ruled that MP(S)P be limited to 20% of the total of all meat, meat by-products, poultry products and poultry meat used in a processed product (e.g., frankfurter). It may not be used in baby foods and hamburger.

As stated in testimony before USDA on February 14, CFA would have preferred that USDA conduct more complete studies regarding the potential risks to consumers from MP(S)P's permitted use. According to CFA's Legislative Director Kathleen D.

Sheekey, "There are no clear benefits to consumers, the risks remain unproven, and its long-term effects unknown." CFA will continue to push USDA for better data.

Despite these concerns, CFA is relieved that USDA's ruling included the requirement that meat products containing MP(S)P be labeled as such in lettering at least one-half the size of the product name. USDA also requires an additional qualifying statement, "Contains \_\_\_\_% Powdered Bone," under the first qualifying statement. The latter qualifier is essential information for consumers who must limit their intake of foods containing calcium.

Past and present indications are that representatives of the meat industry are pressuring President Carter's anti-inflationary watchdog, Robert Strauss, to urge a weakening or repeal of these labeling requirements on the grounds that such disclosures are inflationary. It is CFA's position that the labeling requirements have minimal or no impact on inflation rates and that truthful labeling of products containing a substance as questionable as MP(S)P is essential. Accurate labeling will at least alert consumers to the presence of MP(S)P and provide them with some of the necessary information on which to base individual buying decisions.

## Farm Credit

On June 27th Senate/House conferees completed consideration of the Agriculture Credit Act which would provide low interest loans and increased lending limits on operating loans and on farm ownership loans. Taking into account inflation and the rising cost of farm inputs, Title II of the bill provides for an emergency loan program to re-finance farm debts which increased dramatically after January 1, 1973. CFA has been highly supportive of this bill. However, CFA opposes the beef promotion rider to the bill, introduced by Senator Dole (R-Kansas). This rider would authorize deductions up to 3/10 of 1% of the proceeds on the sale of all cattle on each occasion an animal changed ownership, subject to approval in a referendum vote by a simple majority of beef producers.

Historically, all federally sanctioned producer referendums for marketing, research and promotion have required a two thirds affirmative vote to be implemented. The previous livestock referendum held in July '77 failed to gain the 2/3 vote.

CFA's opposition to the referendum is based on the conviction that the fund (approximately \$65-70 million annually, based on current market prices) would be used by cattlemen to promote the sale of beef, thereby falsely equating consumer education with advertising

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and sales promotion. CFA also argues that the costs will be passed on to consumers while the process allows for little or no official consumer input into policy making or priority setting. The product promotion schemes are not appropriate uses of taxpayer dollars and should be administered and funded by the affected industry trade associations.

The approval of the conference report is expected in mid-July. CFA will continue its efforts to support the measure and oppose the beef referendum provision.

## U.K. Tax Treaty

CFA successfully fought Article 9(4) of the United Kingdom Tax Treaty. On June 27 the Senate passed the treaty without Article 9(4). CFA was opposed to the Article because it:

- encourages foreign investment in U.S. farm lands, thus adversely impacting American family farmers and consumers alike. Foreign investment in farm land in 1977 alone were some \$1 billion. Foreign investors can often afford to offer and pay far more for our land than American farmers, making it more difficult for young people to embark on a career in farming. It also jacks up the tax assessment of neighboring land making it increasingly difficult for those farmers to stay on their land;
- prevents states from restricting tax avoidance by U.K.-based multinational corporations—many of which are multinational oil countries; and
- deprives the states of in excess of \$500 million a year in state income tax liabilities—liabilities which must be then shifted to other tax payers. California for example could lose more than \$120 million, and Alaska another \$50 million.

This treaty has significant precedent value because it was the first of several such treaties about to be considered. The successful defeat of that provision is a victory for consumers and farmers alike.

## GOVERNMENTAL REFORMS

### Public Participation

A bill which would provide for the reimbursement of expenses to eligible citizens and citizen groups for their participation in federal agency proceedings moved one step forward on May 24 when the Senate Subcommittee on Administrative Practice and Procedure

reported the bill CFA supported to the Senate Judiciary Committee. Although mark-up began on June 21 no progress was made.

There has been no momentum in the House, however, as sources indicate that proponents of the bill insist upon first determining whether the requisite number of supportive votes are present.

Meanwhile, agencies and departments which have already implemented public participation programs as well as those agencies who plan to expend funds for public participation are facing highly sophisticated opposition during their appropriations. For example, the Economic Regulatory Administration was precluded from reimbursing public participants when the House voted overwhelmingly to prohibit such expenditures at DOE. The Nuclear Regulatory Commission expects similar opposition to its proposal for the inclusion of \$2 million dollars in its budget for public participation and the Department of Transportation will be challenged in its plan to allocate 250,000 for NHTSA. Similarly, CAB plans to allocate \$300,000.

In the meantime other agencies such as the FCC and USDA have indicated their intentions to create public participation programs by inviting comments regarding the prospective format of such ventures.

### Public Financing

As part of a complicated series of parliamentary maneuvers a provision establishing the public financing of Congressional candidates will soon be considered by the House when they vote on the annual authorization of the Federal Election Commission (HR 11983). If partisan manipulations can be avoided, the provision's chances for final passage are good. CFA supports the measure because it would help eliminate the current pattern by which so many elected officials respond not to their constituencies, but rather to a handful of major campaign contributors. The defeat of every major consumer bill in the 95th Congress has intensified the realization that big business dominates this Congress in an unparalleled manner.

Incumbents and wealthy candidates have unfair advantages over their challengers, which ultimately reduces accountability to the public. At a time when public confidence in politicians is so dramatically low, public financing of candidates is a must.

### Lobbying Disclosures

On April 26 the House voted 259-140 in favor of H.R. 8494, a bill which would strengthen lobbying activity regulation through disclosure requirements.

CFA strongly supported the measure because it is a fair balance between individual citizens' rights to petition their government and the public's right to know what organizations are doing to bring pressure to bear on Congress. The necessity for such disclosures was never more evident than during the debate over establishment of an Office of Consumer Representation in February. Despite public opinion polls which indicated support for such an office by a 2 to 1 margin, mass mailings generated by opponents of the bill proved to be a major factor in its defeat. CFA believes that disclosure of such sophisticated lobbying methods will enable Congress to place such pressure into proper perspective.

The thrust of the lobbying bill is to disclose basic information about the activities of organizations, (not individuals), which pay persons to engage in a significant amount of lobbying. It does not require an organization to reveal its membership list but it does require disclosure of efforts by an organization to generate grassroots lobbying as well as a list of organizations that contribute \$3,000 or more to a registered lobbying organization.

The Senate version, S. 2971, is pending before Chairman Abraham A. Ribicoff's (D.-Conn.) Governmental Affairs Committee. No scheduled mark-up date has been announced yet.

### Consumer Controversies Resolution Act

The Consumer Controversies Resolution Act S. 957 is still awaiting Senate floor action with no firm date yet set.

As originally proposed, the bill would authorize a grant program to develop fair, effective, inexpensive and expeditious mechanisms for the resolution of consumer controversies at the state and local levels.

According to staff members of the Senate Commerce Subcommittee on Consumers, an agreement was reached between proponents and opponents of the measure when it became apparent that the Panama Canal Treaty debate would prevent a floor discussion of the measure. Under that agreement, the bill may be brought to the Senate floor where passage by voice vote is a possibility.

To date there has been no consideration of the bill on the House side, and no hearings have been scheduled for the near future. However, it is hoped that Attorney General Griffin Bell's support, together with pressure from various state attorneys general, may trigger the House Judiciary Committee to hold hearings soon.

### Standing

On April 27, Senator Howard Metzenbaum (D-Ohio) introduced a bill

to broaden the rights of citizens to sue the federal government or federal officials for unlawful government action. The bill, S. 3005, would eliminate certain barriers to "standing" which have eroded citizen access to federal courts. "Standing" is a technical legal concept which essentially requires plaintiffs to demonstrate that they have been economically injured. In theory, "standing" protects the courts from frivolous suits. In reality, the principle is frequently used to deny plaintiffs their day in court. Minority plaintiffs in housing discrimination cases, indigent victims of excessive medical costs, etc. have been unsuccessful in overcoming the "standing" hurdle.

Specifically, the legislation, which CFA supports, would prohibit a federal court from dismissing an action for lack of the plaintiff's standing on any of three grounds:

First. Because the injury complained of is a "generalized grievance." An example would be a denial of standing to a plaintiff challenging the CIA's secret budget simply because his stake as a taxpayer was no larger than that of any other citizen.

Second. Because the defendant's conduct is not the primary cause of the injury. An example would be where citizens sue the Department of Treasury for adopting a regulation which would tend to encourage hospitals to alter their rules and to reduce the level of services offered the poor.

Third. Because a decision for the plaintiff on the merits of the case is not substantially likely to remedy or redress the injury the plaintiff suffered. An example would be the denial of standing to an unwed mother who sought to sue the local district attorney for failing to prosecute the father for failure to make child support payments. The injury in such case would not be rectified by the remedy.

Although the bill has the support of the Justice Department, no date has been scheduled for markup in Metzenbaum's Subcommittee on Citizens and Shareholder's Rights and Remedies.

CFA has long supported legislation providing that any citizen has legal standing to challenge government action which is in violation of the law, and a recognition of the right of any taxpayer to challenge any expenditure of tax funds in violation of the law.

### Class Standing

Sen. Howard Metzenbaum, D.-Ohio, who had earlier introduced a bill, S. 2390, to reduce financial barriers for citizens' access to the courts in violations of their rights, held hearings before the Subcommittee on Citizens and Shareholders Rights and Remedies in

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April. No date has been scheduled yet for the subcommittee to begin markup of the measure. The Administration is expected to submit a bill of its own by mid-July.

Specifically, Metzenbaum's bill would amend the jurisdictional amount provisions of the judicial code to allow multiparty litigation easier access to the courts. It would also provide for more flexible notice provisions in class actions which present meritorious claims within the jurisdiction of the Federal courts.

In recent years Supreme Court decisions held that at least one plaintiff was required to claim sole damages of \$10,000. The Metzenbaum bill would allow aggregation of claims in various kinds of multiparty litigation, including class and other kinds of actions. It would also fetter out frivolous claimants by maintaining the current jurisdictional amount and by requiring that each individual plaintiff have a claim worth at least \$25.

CFA continues to support legislation which would reverse the Supreme Court cases which have virtually eliminated the class action as a practical means of redressing injuries to consumers. Accordingly, CFA will continue to monitor the progress of S. 2390.

## HEALTH & SAFETY

### CPSC Offeror Process

The Subcommittee on Consumer Protection and Finance of the House Committee on Interstate and Foreign Commerce held hearings on February 24 to examine the Consumer Product Safety Commission's track record regarding its use of the Offeror Process. The Offeror Process is the method required of the Commission whereby it invites any person or organization to submit an offer to develop a consumer product safety standard for a specific product. Generally, the process occurs when the Commission decides that such a standard is necessary in order to prevent or reduce an unreasonable risk of injury associated with such a product. Unfortunately, for a variety of reasons the Offeror Process has not lived up to its expectations and only three standards have been issued by the Commission during the last five years using the Offeror Process. In large part, the purpose of the hearings was to explore possible resolutions to this situation.

Subcommittee Chairman Bob Eckhardt (D-TX), proposed a measure which would allow the Commission itself to develop a consumer product safety standard without issuing an invitation (as required by the Act) if the

Commission were to find that it would be in the public interest in any one of several specified events.

CFA Legislative Director, Jerry Hogan, testified that the circumstances which would authorize the Commission to develop a standard without making an invitation were too vague and afforded the Commission an undue degree of latitude in exercising its option. While recognizing the Commission's need for more flexibility, Hogan expressed concern that the language, as drafted, might provide the Commission with a rubber-stamp power that potentially could reduce the Offeror Process to virtual extinction. To protect against this result, Hogan recommended that adequate measures be taken to preserve the opportunity for consumers to be offerors and, when not acting as offeror, that they be provided with the opportunity and incentive to participate in a meaningful manner.

Although CFA would support any change that would increase the frequency of mandatory standards issued by CPSC, Hogan emphasized that standards developed with sufficient consumer input should be the rule and not the exception. When adequately funded and given sufficient direction, concluded Hogan, consumer groups can not only serve successfully as offerors but can produce standards genuinely reflective of consumers' views.

Congressman Eckhardt's amendment has since been approved by the Committee on Interstate and Foreign Commerce and now awaits consideration by the full House.

### CPSC Reauthorization

On April 4, CFA Legislative Director Kathleen D. Sheekey testified before the Subcommittee on Consumer of the Senate Committee on Commerce, Science and Transportation in support of a 3-year reauthorization of the Consumer Product Safety Commission.

Reminding the Committee that CFA has been a frequent and outspoken critic of the CPSC, Sheekey argued that the CPSC's major failings have been largely due to lack of effective leadership. Sheekey expressed CFA's optimism that with the recent addition of Commissioners Sloan and King, the continued pro-consumer performance of Commissioner Pittle, and a more enlightened and aggressive successor to Chairman Byington, CPSC's accomplishments would increase dramatically.

Sheekey also gave examples of the successes CPSC has achieved in the last 5 years in spite of serious management and budgetary restraints. These accomplishments included 3 mandatory product standards, as well as another 20 mandatory safety rules relating to dangers such as aspirin bottles, infant cribs and flame retardant Tris.

On May 9, the full Senate Committee approved the Subcommittee's recommendation of a 3-year reauthorization period. A similar bill was reported out of the House Interstate and Foreign Commerce Committee. Both bills await final passage in the House and Senate.

### Drug Regulation Reform Act of 1978

Proposed legislation (S. 2755 and H.R. 11611) has been designed to overhaul the regulations by which drugs are approved, marketed and monitored. The bills are among the most controversial and heavily lobbied health issues of this Congressional session.

CFA became involved even before the Administration's bill was sent to the White House Office of Management and Budget for the necessary clearance before being submitted to Congress. At HEW's request, CFA hosted a February 10 meeting of 35 consumer, labor, rural, senior citizen, women and minority representatives with FDA Commissioner Donald Kennedy, HEW General Counsel, F. Peter Libassi, and other HEW/FDA officials to discuss the draft bill. Two follow-up meetings with Commissioner Kennedy took place in April during which the group reacted to FDA's section-by-section analysis of the final bill.

As a direct result of these precedent-setting consumer meetings, CFA and other participants have formed the National Consumer Alliance on Prescription Drugs to influence passage of the Act and to monitor future developments in the drug area. The Alliance will announce its creation at a Washington, D.C. press conference during the week of July 10.

CFA's position and that of the Alliance is to conditionally support S. 2755 and H.R. 11611 if Congress stands firm on the bill's positive aspects and rejects those aspects which would weaken restraints against the pharmaceutical industry. The major strengths and weaknesses of the proposed legislation are as follows:

#### Positive Aspects

1. Availability for independent scientific review of raw data resulting from safety and efficacy testing.
2. Provisions for enabling the public to participate in the FDA administrative process by reimbursing attorneys' fees and other costs.
3. Limited distribution of certain drugs which could present dangers if not properly used.
4. Expanded authority to remove suspect drugs from the marketplace.
5. Post-marked surveillance of drugs for a period of five years.
6. Establishment of an independent Center for Clinical Pharmacology to conduct drug research, testing and pre-clinical investigations.

7. Price posting to enable the consumer to predetermine the cost of medicine.

#### Negative Aspects

1. Under the current law, senior corporate officers of drug companies can be held liable for the improper manufacture or distribution of drugs. The proposed legislation would reverse a Supreme Court decision (U.S. vs. Park) upholding this sanction.
2. The new law would remove the present limitation against exporting drugs which are not approved for sale in the U.S. and thereby provide a means for "dumping" unsafe products overseas.
3. Current requirements for testing the safety and effectiveness of so-called "breakthrough drugs" would be relaxed to allow the Secretary of HEW to grant permission for marketing them *without* a demonstration of efficacy through adequately controlled studies.
4. Weakening of present safeguards for human testing.

Several days of Senate hearings were held in May by the Senate Committee on Human Resources, Subcommittee on Health and Scientific Research, chaired by Senator Edward Kennedy (D-MA). Three mark-up sessions have already taken place and will be continued in July.

In the House Representative Paul Rogers (D-FL) has chaired five days of hearings this June on behalf of the Subcommittee on Health and the Environment of the Committee on Interstate and Foreign Commerce. Its mark-up session is not yet scheduled.

### Airbags

During consideration of the U.S. Department of Transportation appropriations, the U.S. House of Representatives cast one of the most anti-consumer votes of this session. By a 237-143 vote the House supported an amendment introduced by Rep. Shuster (R-Pa) which restricts DOT's ability to implement or enforce the airbag portion of the passive restraint standards with FY1979 funds. The first model year that will actually be affected is 1982.

CFA has been a vigorous advocate of the airbag rule since its inception. According to U.S. government statistics, air bags could save 9,000 American lives and prevent nearly 500,000 traffic injuries annually. Moreover DOT estimates that the cost savings from insurance premiums alone would more than pay for any automatic restraint system.

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# CFA Launches Heavy Campaign Effort

CFA has decided that it is now more necessary than ever before to become actively involved in the upcoming Congressional Campaigns. Although in 1976 more Congressional candidates than ever ran on a consumer platform, never has there been a more "do-nothing anti-consumer" Congress than the 95th. To date there has been no floor discussion of No-Fault auto insurance, Public Participation Reimbursement, or Government Accountability Legislation. Like so many issues, legislation to create an Office of Consumer Representation (CFA's top priority) died because of a lack of congressional support. Other measures (such as the Coop Bank Bill) are languishing in one house or both.

It seems ironic that at the same time that Congress continues to say no to consumers, public support for consumerism has been increasing. The Lou Harris polls consistently indicate support for CFA's legislative goals. Even the recently released U.S. News and World Report Study of American Opinion shows strong public support for many of CFA's legislative priorities.

For example, some of the issues CFA has lobbied on which the study addressed showed that on the question of whether, "a new federal agency should be set up to be the Voice of Consumers," 48% of the household heads agreed while 36% disagreed. A majority of 54% of the Americans questioned, "felt the government should ban the sale of products shown in any laboratory tests to have caused cancer in animals." 52% of those polled agreed that, "business should be required to publish more information on profits for each product manufactured." When asked if "government regulation is needed to maintain safe working conditions," 68% of the respondents said yes.

Such polls indicate that CFA's lobbying priorities are far more in line with public opinion than is the Congressional response. At this point consumers must demonstrate their discontent with Congress' sluggish approach through democracy's primary system of reform, the election.

CFA has launched a major effort to actively participate in a select number of upcoming campaigns. Research has

been ongoing in order to determine which candidates CFA will either endorse or oppose. In July CFA will announce the initial list of seats to be targeted.

The process of selecting the candidates will involve several considerations including: CFA voting record scores, responses to CFA's questionnaire, candidate evaluation by CFA state and local members, etc. The CFA questionnaire, which has been mailed to potential CFA endorsed candidates elicits candidates' comments on 15 important CFA issues.

CFA has also prepared a voting record evaluating the performance of each member of Congress to aid consumers in making good choices at the polls. The 1977 Voting Record represents a careful compilation of those floor votes which CFA considers to be the most relevant reflection of Congressional responsiveness (or unresponsiveness) to consumers during the first session of the 95th Congress. The performance of each member of Congress was numerically calculated on a scale of 0-100. The substance of each vote is

presented and an analysis is provided to explain how CFA arrived at its position "pro" or "con." It also includes a partisan, regional and freshman class voting pattern analysis.

Another effective tool for voters is the 1978 CFA Policy Resolutions. Throughout the year these hundreds of policy resolutions provide the framework for the development of specific CFA positions on numerous federal legislative and agency issues. Congressional and Executive Branch leaders alike frequently rely upon them as an important barometer of consumer opinion.

We look forward to your support, impact and enthusiasm so that together we will elect a 96th Congress responsive not to large monied interests, but rather to consumer constituencies.

The CFA voting records and policy resolutions are available for \$5.00 apiece (\$2.00 for member organizations). Check or money order should be sent to Consumer Federation of America, 1012 14th Street, N.W., Suite 901, Washington, D.C. 20005.

## Regional Conferences

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food and lodging costs are typically less for a regional than a national meeting), and to provide opportunities to develop conference programs which contain more specific, in depth discussion of particular local concerns.

### Hartford, Connecticut

The first NCCEP regional conference, "Strategies for Change: a Meeting of New England Consumer Activists and Educators," was held March 4-5, 1978 in Hartford, Connecticut. The conference was co-sponsored by Connecticut Citizen Action Group, Connecticut Citizen Research Group, United Auto Workers Region 9A, and the Douglas Center.

Congressman Anthony "Toby" Moffett gave the keynote address at this two-day meeting, which was attended by more than 160 activists and educators from six states. Congressman Moffett, a former Director of Connecticut Citizen Action Group, urged participants to organize to put pressure on those in power in order to make government more responsive and accountable.

The conference also featured keynote panels. Michael Ansara, Director of Mass Fair Share, Charlene Block, Chairperson of the Consumer Affairs Committee of United Auto Workers Local 626, and Marty Rogol, former Director of National Public Interest Research Group, offered insights on "Organizing for Change" at a conference session on Saturday evening. Food and agriculture, energy and utilities, health care and housing issues were summarized respectively by Pat Sackrey of Women in Agriculture, Louise McCarren of New England Regional Energy Project,

Ted Bogue of Health Research Group, and Ron Atlas of Shelterforce, in the opening session, "Four Areas of Concern," on Saturday morning.

The eighteen conference workshops included in the program reflected the wealth of local, as well as national, expertise and resource materials on both issues and effective strategies. Half of these sessions focused on strategies and resources within the context of specific issues—food and agriculture, energy and utilities, health care and housing. Among the others were sessions on effective lobbying, handling consumer complaints, making small claims courts work for consumers, training staff and volunteers, conducting price and service surveys, and fundraising.

A summary of the proceedings of this conference has just been published as a special issue (June) of THE ACTION FACTION. Single copies are available, without charge, to CFA members.

### Fort Wayne, Indiana

Consumer Center (Fort Wayne, Indiana) joined the Douglas Center in sponsoring NCCEP's second regional consumer education conference, held May 12-13, 1978 at St. Francis College in Fort Wayne. The two-day event, entitled "Strategies for change: a meeting of Midwestern consumer activists and educators," drew more than 130 consumer leaders from five states—Illinois, Indiana, Michigan, Ohio and Wisconsin.

Participants, as a group, reflected the diversity of nonprofit organizations involved in consumer education and advocacy programs in this multi-state area. Among activists and educators

attending the conference were representatives from consumer and citizen action groups, local labor unions, community action agencies, tenants' organizations, and state and local government.

This program, like the first in Hartford, tapped both local and national resources. Two high ranking federal government officials, who were once grassroots consumer leaders, were featured speakers at the conference. Consumer Product Safety Commissioner David Pittle discussed the role of the agency in consumer protection and the growing issue of "choice vs. regulation." Lee Richardson, Acting Director of HEW's Office of Consumer Affairs, offered insights on "Educating for Change."

Other featured speakers were CFA's Executive Director, Kathleen F. O'Reilly, who urged participants to sharpen their efforts to enact needed consumer legislation because opposition to pro-consumer measures is extremely well organized and well funded; Jim Keck of The Midwest Academy, who outlined organizing strategies and tactics; and consumer reporters Clark Bell (Chicago SUN TIMES) and Jay Seaton (WKYC-TV in Cleveland), who offered their views, as professionals in media, on why consumer activists don't get the coverage they seek.

Fifteen workshops, staffed by panels of experts from grassroots, statewide, and national organizations, afforded participants opportunities to explore model projects, effective strategies and resource materials for consumer education and advocacy.

A special issue of THE ACTION

FACTION, scheduled for release late this summer, will summarize the proceedings of this conference.

### Portland, Oregon

The third, and final NCCEP regional conference this year will be held at the University of Portland in Portland, Oregon, August 19-20. The conference is being co-sponsored by Oregon Consumers League and the Douglas Center. For further information, call or write Janet Jernigan or Sherry Lindquist at the Douglas Center (202) 347-5813 or Elson Strahan, Oregon Consumers League, 519 Southwest 3rd Street, Rm 412, Portland, Oregon 97204 (503) 227-3882.

## Administration Approach to Inflation

(Continued from page 2)

requirements have minimal or no impact on inflation rates but are politically vulnerable because they are pet peeves of big business.

CFA reiterated its strong support for aggressive attacks on inflation—the largest single problem facing the consumer today. The anti-inflationary program, however, should attack:

- monopoly and oligopoly power;
- regulations restricting market entry and price competition;
- lack of information facilitating informed consumer purchasing decisions; and
- anticompetitive practices including price-fixing.



## New Faces at CFA

(Continued from page 6)

of the District of Columbia Office of Consumer Protection, and was the student director of the Consumer H-E-L-P, a clinical law program. Before entering law school, he received a B.A. in Economics from S.U.N.Y. Binghamton.

Also joining the staff at the Paul Douglas Center is Mary Walker. Mary is a recent graduate of Georgetown University with a B.A. in English and Philosophy.

Six students also join the CFA staff this summer as interns. Barbara Hoffman is a junior at Princeton University where she studies politics.

Kate Ascher is a junior at Brown University and studies political science.

Joel Margolis is a European History major at the University of Michigan.

Kathy McKay is a student at Mt. Holyoke College and studies political science.

Debbie Gray, a senior at the University of North Carolina at Chapel Hill, is a Public Policy Analysis in Consumer Affairs major.

Amy Rosenthal is a history and political science major at Vassar College, where she will be a junior next year.

Peter Ginsberg and Cathy Perlmutter have recently joined CFA as summer staff members, having served as CFA interns three years ago. A senior at Harvard University, Cathy worked last year as an editorial assistant with the *Washington Star* and as a reporter with the Washington Bureau of the *Hartford Courant*.

Following his graduation from the University of Pennsylvania, Ginsberg was chosen as a Thouron Fellow, and studied at the London School of Economics, where he received an M.S.C. degree. He has just finished his first year at Columbia Law School.

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## CFA Legislative Wrap-Up

(Continued from page 12)

### HOUSING

#### Community Development Act

On June 19th the full House by a vote of 332-47 appropriated \$32 billion for the Housing and Community Development Act Amendments of 1978, HR 12433. This appropriation, which represents the HUD budget for FY 1979, is a billion dollars below the Administration's request and \$5 billion below last year's budget. The House will take up authorization for the bill on June 28. The Senate version of the Housing and Community Development Act of 1978, S. 3084, was reported out by the Committee on Banking, Housing and Urban Affairs on May 15. Senate floor action is pending.

The Housing and Community Development Act Amendments of 1978 cover a wide range of programs including community development, assistance for public and subsidized housing, housing for the elderly and rural housing.

The House and Senate bills contain some significant differences. Sec. 207 of the Senate bill would provide \$75 million for rent relief for very low income tenants in HUD subsidized multi-family projects. Intensive lobbying by housing groups persuaded 3 key Senators (Stevenson (D-Ill.), Schmitt (R-NM), Sparkman (D-Ala)) to vote for the amendment ensuring Committee passage. There is no comparable provision in the House bill.

Sec. 103(c) of the House bill would severely limit the effectiveness of the Community Development program. The provision, an amendment offered by Rep. Gary Brown (R-Mich), prohibits HUD from requiring block grant applications to principally benefit low and moderate income persons. This provision treats the present primary objective of benefiting low and mod-

erate income consumer co-equal with the other purposes of CD (aiding in the elimination or prevention of slums and blight; meeting CD needs of a particular urgency). According to HUD Secretary Patricia Harris, the Brown Amendment "effectively destroys the CD program."

The Senate bill requires HUD to minimize displacement in carrying out programs and to make a comprehensive study of public and private displacement. HUD has been criticized for aiding the problem of displacement (low-income families replaced by more affluent persons) with the expansion of the Section 8, subsidized housing program. While the House bill contains no such statutory language on displacement, the Banking Committee report does contain language indicating the concern of the Committee on the displacement problem.

### INSURANCE

#### No-Fault

Having been finally reported out of the Commerce Committee on April 6 by a vote of 10-5, the CFA sponsored No-Fault bill (S. 1010) is now ready for full Senate consideration.

Efforts by Senator John Durkin (D-NH) and Senator Don Riegle (D-MI) both of whom should be No-Fault champions are most upsetting. They have seized upon the notion of introducing industry reform amendments, even though No-Fault has never been intended as an insurance reform measure and even though hearings have not been held on the issues they raise. Hopefully their thinly veiled attempts to "improve the bill to death," will not succeed. Trial lawyer opposition is at an all time high. Since last year's DOT study concluded that properly structured No-

Fault (as in Michigan) does work, two actuarial studies recently have been completed which confirm precisely the same conclusion that No-Fault is a more humane approach to the pain-injuries associated with auto accidents, and is a good consumer buy because it returns more of the premium dollar back to consumers. Additionally, it has been estimated that nationwide No-Fault would reduce premiums by some 10%. In those states which might experience a modest increase in premiums, that increase would be more than offset by fast payments to all victims rather than no payments to many victims.

In the House Congressman Bob Eckhardt's (D-Tex) subcommittee on Consumer Protection and Finance on May 22 reported No-Fault to the Committee on Interstate and Foreign Commerce where markup will continue.

#### Attention Travellers to New York

CFA can't resist sharing the following consumer tip with you. The next time you arrive at New York's LaGuardia airport, try taking the #Q-33 bus located just outside the Eastern Airlines shuttle terminal. Take it to the end of the line in Queens (approximately 10 minutes) and continue by subway to your New York City destination. Total cost: \$1.00.

Besides saving money (taxis into the city cost \$8.00-\$10.00 during rush hours) you'll save time as well, especially during the rush hours. On a recent trip CFA's executive director, Kathleen O'Reilly, left Manhattan at 4:04 pm and was at LaGuardia by 4:40 pm in plenty of time for the 5:00 shuttle. Need we say more?

This consumer tip was brought to us courtesy of Richard F. Kerr of Federated Department Stores, Inc.

## Consumer Federation of America NEWS

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